

## **CHAPTER 11 ENGINEERS AND LAND SURVEYORS**

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#### **Note:**

This law specifies the general provisions governing the practices of engineers and of land surveyors. In addition, it creates the Board of Licensure for Professional Engineers and Land Surveyors. The board is empowered by the law to establish rules and regulations that cover specific requirements and procedures necessary for proper administration of the Alabama Law. These rules and regulations are specified in Administrative Code, Chapter 330-X.

### **ARTICLE 1. GENERAL PROVISIONS**

#### **Section 34-11-1. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the respective meanings ascribed by this section:

(1) **BOARD.** The State Board of Licensure for Professional Engineers and Land Surveyors, provided for by Section 34-11-30.

(2) **ENGINEER INTERN.** A person who has qualified under subdivision 2 of Section 34-11-4, and who, in addition, has successfully passed an eight-hour written examination in the fundamental engineering subjects as provided in Section 34-11-6, and who has been certified by the board as an engineer intern.

(3) **ENGINEER or PROFESSIONAL ENGINEER.** A person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering as hereinafter defined and has been licensed by the board as a professional engineer.

(4) **LAND SURVEYOR INTERN.** A person who has qualified under subdivision (4) of Section 34-11-4, has passed an examination in the fundamental land surveyor intern subjects, pursuant to this chapter, and who has been certified by the board as a land surveyor intern.

(5) **LAND SURVEYOR or PROFESSIONAL LAND SURVEYOR.** A person who has been duly licensed as a professional land surveyor by the board established under this chapter, and who is a professional specialist in the technique of measuring land, is educated in the principles of mathematics, the related physical and applied sciences, the relevant requirements of law for adequate evidence and all requisites for surveying of real property, and is qualified to practice land surveying as defined in subdivision (8).

(6) **PRACTICE and OFFER TO PRACTICE.** Any person shall be construed to practice or offer to practice engineering or land surveying, within the meaning and intent of this chapter, who offers to or does as a profession practice any branch of engineering or land surveying; or who by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself or herself to be a professional engineer or a professional land surveyor, or through the use of some other title implies that he or she is a professional engineer or a professional land surveyor; or who represents himself or herself as able to perform or who does perform any engineering or land surveying service or work or any other service designated by the practitioner which is recognized as engineering or land surveying.

(7) **PRACTICE OF ENGINEERING.** Any professional service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, testimony, investigation, evaluation, planning, design and design coordination of engineering works and systems, planning the use of land and water, performing engineering surveys and studies, and the review of construction or other design products for the purpose of monitoring compliance with drawings and specifications; any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products; equipment of a control, communications, computer, mechani-

cal, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and including other professional services necessary to the planning, progress, and completion of any engineering services.

a. Design coordination includes the review and coordination of those technical submissions prepared by others, including, as appropriate and without limitations, consulting engineers, architects, landscape architects, land surveyors, and other professionals working under the direction of the engineer.

b. Engineering surveys include all survey activities required to support the sound conception, planning, design, construction, maintenance and operation of engineered projects, rights-of-way and easement acquisitions relative to the centerline of the project. Engineering surveys may be used to locate, relocate, establish, reestablish, layout or retrace any road, right-of-way, easement or alignment relative to the centerline of the project. Additionally, engineering surveys may be performed to determine areas, volumes or physical features of the earth, elevation of all real property, improvements on the earth and the configuration or contour of the surface of the earth or the position of fixed objects thereon by measuring lines and angles and applying the principles of mathematics. All engineering surveys shall exclude the surveying of real property for the establishment of any property line or land boundaries, setting of corners or monuments, and the dependent or independent surveys or resurveys of the public land survey system.

c. The term shall not include the practice of architecture except such architectural work as is incidental to the practice of professional engineering; nor shall the term include work ordinarily performed by persons who operate or maintain machinery or equipment.

(8) PRACTICE OF LAND SURVEYING. Professional services, including, but not limited to, consultation, project coordination, investigation, testimony, evaluation, planning, mapping, assembling, and interpreting reliable scientific measurements and information relative to the location, size, shape, areas, volumes, or physical features of the earth, improvements on the earth, the space above the earth, or any part of the earth, and the utilization and development of these acts and interpretation into an orderly survey map, plan, report, description, or project. Project coordination shall include the coordination of those technical submissions as prepared by others. Notwithstanding the provisions of this subdivision, the practice of land surveying shall exclude functions unique to engineering as specified by rules of the board. The practice of land surveying shall include, but is not limited to, any one or more of the following:

a. Locates, relocates, establishes, reestablishes, lays out, or retraces any property line or boundary of any tract of land or any road, right-of-way, easement, alignment, or elevation of all real property whether or not fixed works are sited or proposed to be sited on the property.

b. Makes any survey for the subdivision of any tract of land or for condominiums.

c. Determines, by the use of the principles of land surveying, the position for any survey, monument, or reference point; or sets, resets, or replaces any such monument or reference point.

d. Determines the configuration or contour of the surface of the earth or the position of fixed objects thereon by measuring lines and angles and applying the principles of mathematics or photogrammetry.

e. Geodetic surveying which includes surveying for determination of the size and shape of the earth both horizontally and vertically and the precise positioning of points on the earth utilizing angular and linear measurements through spatially oriented spherical geometry.

f. Creates, prepares, or modifies electronic or computerized data, including land information systems and geographic land information systems, relative to the performance of the activities in paragraphs a. to e., inclusive.

(9) RESPONSIBLE CHARGE. Direct control and personal supervision of engineering work or land surveying work.

#### **Section 34-11-2. Practice of engineering and land surveying regulated.**

(a) No person in either public or private capacity shall practice or offer to practice engineering or land surveying, unless he or she shall first have submitted evidence that he or she is qualified so to practice and shall be licensed by the board as hereinafter provided or unless he or she is specifically exempted from licensure under this chapter.

(b) In order to safeguard life, health, and property, and to promote the public welfare, the practice of engineering in this state is a learned profession to be practiced and regulated as such, and its practitioners in this state shall be held accountable to the state and members of the public by high professional standards in keeping with the ethics and practices of the other learned professions in this state. It shall be unlawful for any person to practice or offer to practice engineering in this state, as defined by this chapter, or to use in connection with his or her name or otherwise assume, use, or advertise any title or description including, but not limited to, the terms engineer, engineers, engineering, professional engineer, professional engineers, professional engineering, or any modification or derivative thereof, tending to convey the impression that he or she is a professional engineer unless the person has been duly licensed or is exempt from licensure under this chapter. A person whose firm name shall have contained the word "engineer," "engineers," or "engineering," or words of like import, for more than 15 years before September 12, 1966, shall not be prohibited from continuing the use of such word or words in his or her firm name.

(c) In order to safeguard life, health, and property and to promote the public welfare, the practice of land surveying in this state is a learned profession to be practiced and regulated as such, and its practitioners in this state shall be held accountable to the state and members of the public by high professional standards in

keeping with the ethics and practices of the other learned professions in this state. It shall be unlawful for any person to practice or offer to practice land surveying in this state, as defined by this chapter, or to use in connection with his or her name or otherwise assume, use, or advertise any title or description including, but not limited to, the terms land surveyor, land surveyors, land surveying, professional land surveyor, professional land surveyors, professional land surveying, or any modification or derivative thereof, tending to convey the impression that he or she is a professional land surveyor unless the person has been duly licensed or is exempt from licensure under this chapter.

(d) Right of entry on land of others by professional land surveyor - Notification of landowner - Liability of landowner. As used in this subsection, the term professional land surveyor shall include the agents, the employees, and any personnel under the supervision of a professional land surveyor.

(1) A professional land surveyor may go on, over, and upon the lands of others which is not enclosed by any device installed to deter entry to or exit from industrial facilities or plant sites by humans or vehicles, if necessary to perform surveys for the location of section corners, quarter corners, property corners, boundary lines, rights-of-way, and easements, and may carry and utilize equipment and vehicles. Entry under the right granted in this subdivision shall not constitute trespass. A professional land surveyor shall not be liable to arrest or to a civil action for trespass by reason of this entry.

(2) Nothing in this subsection shall be construed as giving authority to a professional land surveyor to destroy, injure, damage, or move anything on the lands of another without the written permission of the landowner and nothing in this section shall be construed as removing civil liability for the damages.

(3) A professional land surveyor shall make reasonable effort to notify adjoining landowners upon whose land it is necessary to enter.

(4) No owner or occupant of the land shall be liable for any injury or damage sustained by any person entering upon his or her land under this subsection.

(5) Nothing in this subsection shall limit the rights of condemning authorities under Sections 18-1A-50 to 18-1A-55, inclusive.

### **Section 34-11-3. Roster of registrants.**

A roster showing the names and addresses of all licensed professional engineers, all professional land surveyors, and all who possess current certifications as engineer interns or land surveyor interns shall be prepared by the executive director of the board at intervals as established by the board. Copies of this roster shall be made available to each person licensed or certified, placed on file with the Secretary of State, and may be distributed or sold to the public upon request.

### **Section 34-11-4. General requirements for licensure or certification.**

The board may approve engineering, engineering technology, land surveying, and related science programs which shall be accepted under the following criteria:

(1) **PROFESSIONAL ENGINEER.** The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional engineer:

#### *a. Graduation and experience plus examination.*

1. Graduation in an approved engineering curriculum plus four years experience. -- A graduate of an approved engineering curriculum of four years or more from a school or college approved by the board who has successfully passed the eight-hour written examination in the fundamental engineering subjects and who has a specific record of an additional four years or more of progressive experience in engineering work of a grade and character satisfactory to the board shall be admitted to an eight-hour written examination in the principles and practice of engineering. Upon passing this examination, the applicant shall be granted a certificate of licensure to practice engineering in this state, provided the applicant is otherwise qualified.

2. Graduation in an unapproved engineering curriculum plus six years experience. -- A graduate of an unapproved engineering curriculum of four years or more who has successfully passed the eight-hour written examination in the fundamental engineering subjects and who has a specific record of an additional six years or more of progressive experience in engineering work of a grade and character satisfactory to the board shall be admitted to an eight-hour written examination in the principles and practice of engineering. Upon passing this examination, the applicant shall be granted a certificate of licensure to practice engineering in this state, provided the applicant is otherwise qualified.

3. Graduation in an approved engineering technology or related science curriculum plus eight years experience. -- Before December 31, 2005, and not thereafter, a graduate of an approved engineering technology curriculum of four years or more from a school or college approved by the board or a graduate of a related science curriculum of four years or more who has successfully passed the eight-hour written examination in the fundamental engineering subjects and who has a specific record of an additional eight years or more of progressive experience in engineering work of a grade and character satisfactory to the board shall be admitted to an eight-hour written examination in the principles and practice of engineering. Upon passing this examination, the applicant shall be granted a certificate of licensure to practice engineering in this state, provided the applicant is otherwise qualified.

b. *Comity.* -- The board may, upon application, issue a certificate of licensure as a professional engineer to any person who holds a valid professional engineering certificate issued by any jurisdiction of the United States or of any country; provided, that the education, experience, and examination qualifications of the applicant meet the requirements of this chapter and the rules established by the board. The board may authorize an applicant to practice engineering on a temporary basis

upon issuance of an interim permit which shall remain in effect until the board acts upon the application. The interim permit may be issued upon submission of documentation and a fee which shall be established by the board, not to exceed fifty dollars (\$50).

(2) **ENGINEER INTERN.** The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for certification as an engineer intern:

a. *Graduation and examination.* -- A graduate of an approved engineering curriculum of four years or more from a school or college approved by the board who has successfully passed an eight-hour written examination in the fundamental engineering subjects shall be certified as an engineer intern, if otherwise qualified.

b. *Graduation and examination plus experience.* -- Graduation in an unapproved engineering curriculum plus two years experience. A graduate of an unapproved engineering curriculum of four years or more who has successfully passed an eight-hour written examination in the fundamental engineering subjects and who has a specific record of two years or more of progressive experience in engineering work of a grade and character satisfactory to the board shall be certified as an engineer intern, if otherwise qualified.

c. *Comity.* -- The education, experience and examination qualifications of the applicant shall meet the requirements of this section and the rules established by the board. Fundamentals of engineering examinations of comparable character taken and passed in another jurisdiction may be accepted by the board.

(3) **PROFESSIONAL LAND SURVEYOR.** The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional land surveyor.

a. *Graduation and experience plus examination.*

1. Graduation in an approved land surveying curriculum plus four years experience. -- A graduate of an approved land surveying curriculum of four years or more including a minimum of 30 semester hours or 45 quarter hours of surveying courses from a school or college approved by the board who has successfully passed an eight-hour written examination in the fundamental land surveying subjects and who has a specific record of an additional four years or more of combined office and field experience in land surveying work of a grade and character satisfactory to the board shall be admitted to a six-hour written examination in the principles and practice of land surveying and a two-hour written examination on laws, procedures, and practices pertaining to land surveying in Alabama. Upon passing these examinations, the applicant shall be granted a certificate of licensure to practice land surveying, provided the applicant is otherwise qualified.

2. Graduation in an approved curriculum related to surveying plus six years experience. -- A graduate of a curriculum related to surveying of four years or more including a minimum of 15 semester hours or 22.5 quarter hours of surveying courses from a school or college

approved by the board and who has successfully passed the eight-hour written examination in the fundamental land surveying subjects and who has a specific record of an additional six years or more of progressive office and field experience in land surveying work of a grade and character satisfactory to the board shall be admitted to a six-hour examination in the principles and practice of land surveying and a two-hour written examination of laws, procedures, and practices pertaining to land surveying in Alabama. Upon passing these examinations, the applicant shall be granted a certificate of licensure to practice land surveying in this state, provided the applicant is otherwise qualified.

3. Graduation in a related science curriculum plus eight years experience. -- A graduate of a related science curriculum of four years or more from a school or college approved by the board who has successfully passed the eight-hour written examination in the fundamental land surveying subjects and who has a specific record of an additional eight years or more of progressive combined office and field experience in land surveying work of a grade and character satisfactory to the board shall be admitted to a six-hour examination in the principles and practice of land surveying and a two-hour written examination of laws, procedures, and practices pertaining to land surveying in Alabama. Upon passing these examinations, the applicant shall be granted a certificate of licensure to practice land surveying in this state, provided the applicant is otherwise qualified.

b. *Experience plus examination.* -- Before December 31, 2007, an applicant who has a specific record of eight years or more of combined office and field experience in land surveying work of a grade and character satisfactory to the board shall be admitted to an eight-hour written examination in the fundamentals of land surveying, and after passing the fundamentals examination shall be admitted to a six-hour written examination in the principles and practice of land surveying and a two-hour written examination on laws, procedures, and practices pertaining to land surveying in Alabama. Upon passing these examinations, the applicant shall be granted a certificate of licensure to practice land surveying in this state, provided the applicant is otherwise qualified.

c. *Comity.* -- The board may, upon application, grant to any person who holds a valid professional land surveying certificate issued by any jurisdiction of the United States or of any country, admission into a two-hour written examination of laws, procedures, and practices pertaining to land surveying in Alabama, provided that the education, experience, and examination qualifications of the applicant meet the requirements of this chapter and rules established by the board. Upon passing the examination, the applicant shall be granted a certificate of licensure to practice land surveying in this state, provided the applicant is otherwise qualified.

(4) **LAND SURVEYOR INTERN.** The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for certification as a land surveyor intern:

a. *Graduation plus examination.* Graduation in an approved land surveying curriculum. -- A graduate of a land surveying curriculum of four years or more including

a minimum of 30 semester hours or 45 quarter hours of surveying courses from a school or college approved by the board who has successfully passed an eight-hour written examination in the fundamentals of land surveying shall be certified as a land surveyor intern, if otherwise qualified.

*b. Graduation and examination plus experience.*

1. Graduation in an approved curriculum related to surveying plus two years experience. -- A graduate of a curriculum related to surveying of four years or more including a minimum of 15 semester hours or 22.5 quarter hours of surveying courses from a school or college approved by the board who has successfully passed an eight-hour written examination in the fundamentals of land surveying and who has a specific record of an additional two years or more of combined office and field experience in land surveying work of a grade and character satisfactory to the board shall be certified as a land surveyor intern, if otherwise qualified.

2. Graduation in a related science curriculum plus four years experience. -- A graduate of a related science curriculum of four years or more who has successfully passed an eight-hour written examination in the fundamentals of land surveying and who has a specific record of an additional four years or more of combined office and field experience in land surveying work of a grade and character satisfactory to the board shall be certified as a land surveyor intern, if otherwise qualified.

*c. Comity.* -- The education, experience, and examination qualifications of the applicant shall meet the requirements of this section and the rules established by the board. The board may accept fundamentals of land surveying examinations of comparable character taken and passed in another jurisdiction.

(5) CHARACTER. -- No person shall be eligible for licensure as a professional engineer, certification as an engineer intern, licensure as a professional land surveyor, or certification as a land surveyor intern who is not of good character and reputation.

(6) TEACHING CREDITS. -- In considering the qualifications of applicants, teaching in an engineering curriculum approved by the board may be considered as engineering experience. Teaching land surveying subjects in a land surveying curriculum approved by the board may be considered as land surveying experience.

(7) GRADUATE STUDY. -- In counting years of experience for professional engineer licensure, the board may give credit, not in excess of one year, for successful completion of graduate study leading to a master's degree in engineering. If a Ph.D. in engineering is completed, a total of two year's experience may be credited. The two-year credit shall include one year for the master's degree. If the Ph.D. is obtained without the master's degree, the credit for experience shall be two years. In counting years of experience for professional land surveyor licensure, the board may give credit, not in excess of one year, for successful completion of graduate study leading to a master's degree in land surveying. If a Ph.D. in land surveying is completed, a total of two years experience may be credited. The credit of two

years shall include one year for the master's degree. If the Ph.D. is obtained without the master's degree, the credit for experience shall be two years.

(8) NONPRACTICING APPLICANTS. -- Any person having the necessary qualifications prescribed in this chapter to entitle the applicant to licensure shall be eligible for licensure although the applicant may not be practicing engineering or land surveying at the time of making application.

**Section 34-11-5. Applications; fees.**

(a) Applications for licensure as a professional engineer, professional land surveyor, engineer intern, or land surveyor intern shall be on forms prescribed and furnished by the board and shall contain statements made under oath. Three or more of the references contained in an application for licensure as a professional engineer shall be professional engineers having personal knowledge of the applicant's engineering experience. Three or more of the references contained in an application for professional land surveyor shall be professional land surveyors having personal knowledge of the land surveying experience of the applicant. All references and experience verifications furnished shall be confidential records of the board. Any individual who was previously licensed in this state and whose license is eligible for reinstatement as outlined in subsection (a) of Section 34-11-8 shall comply with the reinstatement procedures established by the board instead of the submission of a new application.

(b) The application fee and the licensure fee for professional engineers or professional land surveyors shall be set by the board and each fee shall not exceed one hundred dollars (\$100).

(1) For professional engineers applying for licensure by way of comity, both the application fee and licensure fee shall accompany the application.

(2) For professional engineers applying for licensure by way of examination and for professional land surveyors, the application fee shall accompany the application, and the licensure fee shall be due upon approval of licensure. If the applicant fails or refuses to remit the licensure fee within 30 days after being notified of successfully qualifying, the applicant shall forfeit the right to have a certificate so issued. For further consideration, the applicant shall be required to submit a new application and application fee.

(c) The application fee, which shall include the certification fee, for engineer interns and land surveyor interns shall be set by the board, shall not exceed fifty dollars (\$50), and shall accompany the application.

(d) The fee for a certificate of authorization for a corporation, partnership, or firm shall be set by the board and shall not exceed two hundred fifty dollars (\$250), and must accompany the application.

(e) If the board denies certification or licensure to any applicant, or the certificate of authorization to any corporation, partnership or firm, the fee paid shall be

retained as an application fee.

#### **Section 34-11-6. Examinations.**

(a) Examinations shall be held at such times and places as the board determines and upon payment of an examination fee.

(b) When examinations are required on fundamental subjects, the applicant shall be permitted to take this part of the professional examination as specified by rules of the board. A candidate failing an examination may apply for reexamination under guidelines established by the board.

(c) When examinations are required on applied subjects, the applicant shall be permitted to take this part of the professional examination as specified by guidelines established by the board. The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise engineering or land surveying works so as to protect the safety of life, health, and property. Examinations shall be given for the purpose of determining the qualifications of applicants for licensure separately in engineering and in land surveying. A candidate failing an examination may apply for reexamination under guidelines established by the board.

(d) The fees for examination and reexamination shall be set by the board and shall not exceed three hundred dollars (\$300).

#### **Section 34-11-7. Issuance of certificate; seal.**

(a) The board shall issue a certificate of licensure upon payment of a licensure fee as provided for in this chapter to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter. In the case of a professional engineer, the certificate shall authorize the practice of engineering. In the case of a professional land surveyor, the certificate shall authorize the practice of land surveying. Certificates of licensure shall show the name of the licensee, shall have a license number, and shall be signed by the chair and the secretary of the board under the seal of the board.

(b) The issuance of a certificate of licensure by the board shall be prima facie evidence that the person named therein is entitled to all the rights and privileges of a professional engineer, or of a professional land surveyor unless the certificate is revoked, suspended, surrendered, lapsed, or expired.

(c) Each professional engineer should upon licensure obtain a seal of the design authorized by the board, bearing the licensee's name, licensure number, and the legend, "licensed professional engineer." Previously purchased seals bearing the terminology "registered" vs. "licensed" may continue to be used until replacement is required. Engineering drawings, plans, specifications, plats, and reports issued by a licensee or by qualified persons under the direction of the licensee and for which the licensee assumes full responsibility shall be certified pursuant to this chapter. It shall be unlawful for anyone to use an expired, suspended, surrendered, lapsed, or revoked certificate or seal or facsimile thereof.

(d) Each professional land surveyor should upon licensure obtain a seal of the design authorized by the board, bearing the licensee's name, licensure number, and the legend, "licensed professional land surveyor." Previously purchased seals bearing the terminology "registered" vs. "licensed" may continue to be used until replacement is required. Land plats, legal descriptions of lands, and land surveying reports issued by a licensee or by qualified persons under the direction of the licensee and for which the licensee assumes full responsibility shall be certified pursuant to this chapter. It shall be unlawful for anyone to use an expired, suspended, surrendered, lapsed, or revoked certificate or seal or facsimile thereof. Whenever the seal is applied, the document must be signed by the licensee thereby certifying that he or she is competent in the subject matter and is responsible for the work product. A digital signature may be used in lieu of a handwritten signature.

#### **Section 34-11-8. Renewal of certificates; lapsed licenses.**

(a) The board shall, by rule, establish a procedure for renewing certificates of licensure on an annual or a biennial basis. It shall be the duty of the executive director of the board to notify every person licensed under this chapter of the final date of the renewal of his or her license and the amount of the fee required for the renewal. The notice shall be mailed to the last address of the licensee recorded by the executive director of the board at least one month in advance of the renewal deadline. Renewal may be accomplished at any time prior to or during the month of December by payment of the required fee. The board shall establish the renewal fee for each certificate of licensure issued pursuant to this chapter. The amount of the renewal fee shall not exceed one hundred fifty dollars (\$150) for annual renewal or three hundred dollars (\$300) for biennial renewal. Certificates of licensure for professional engineers and professional land surveyors shall lapse on the last day of the month of December, annually or biennially, unless renewed. The board shall, by rule, establish procedures including requirements, time limits, and the minimum continuing professional competency hours required for reinstating or reactivating a lapsed license. The board shall establish a reinstatement fee which shall be based on the period the license was lapsed. A lapsed license, if not reinstated, shall remain in a lapsed classification for a total of four years. Any license which has lapsed for more than four years shall not be eligible for reinstatement or reactivation and is expired.

(1) Any individual whose license has lapsed for nonpayment of renewal fees shall continue to be subject to this chapter and board rules governing licenses until the licensure is revoked by action of the board or the license is not eligible for reinstatement under the rules of the board. A licensee who practices or offers to practice in this state with a lapsed, inactive, or retired license shall be subject to disciplinary action by the board.

(2) No licensee shall have his or her license renewed unless, in addition to any other requirements of this chapter, the minimum annual or biennial continuing professional competency requirement is met. It is further provided that the continuing professional competency

program herein required shall not include testing or examination of the licensee in any manner. The board may, by rules, establish exemptions from the continuing professional competency requirement for retired licensees and others in extenuating circumstances as identified by rule of the board.

(b) Enrollment as engineer interns and land surveyor interns shall expire on the last day of the month of December following their issuance or renewal. The notification to interns shall be processed as prescribed above for licensees except that the annual renewal fee shall not exceed ten dollars (\$10). The failure on the part of any intern to accomplish renewal shall not invalidate his or her status as an engineer intern or land surveyor intern, but his or her name shall, after 90 days, be removed from the current mailing list of the board. The fee to bring an enrollment current after a renewal expiration shall be twice that established for annual renewal.

(c) Certificates of authorization issued to corporations, partnerships, or firms practicing or offering to practice engineering or land surveying under this chapter shall lapse on the last day of the month of January following their issuance or renewal, unless renewed. The amount of the renewal fee shall be set by the board and shall not exceed two hundred fifty dollars (\$250). It shall be the duty of the executive director of the board to notify every corporation, partnership, or firm holding a certificate of authorization under this chapter of the final date of renewal of the certificate and the amount of the fee which shall be required for its renewal for one year. The notice shall be mailed by the executive director to the last address recorded for the corporation, partnership, or firm at least one month in advance of the renewal deadline. Renewals may be accomplished at any time prior to or during the month of January by payment of the required fee. Failure by the corporation, partnership, or firm to renew its certificate of authorization prior to or during the month of January shall cause the certificate to lapse, and it shall be unlawful for the corporation, partnership, or firm to practice, offer to practice, or hold itself out as qualified to practice engineering or land surveying in Alabama following the lapse of its certificate of authorization. The board shall, by rules, establish procedures and time limits for reactivating a certificate of authorization and the reinstatement fees which shall be based on the period the certification was lapsed. A firm, partnership, or corporation whose certificate of authorization has lapsed for nonpayment of renewal fees shall continue to be subject to this chapter and the rules of the board governing licenses until the certificate of authorization is revoked by action of the board or the certificate of authorization is no longer renewable under the rules of the board. If not reinstated, a lapsed certificate of authorization shall remain in a lapsed classification for a period of two years. Any certificate of authorization which has been lapsed for more than two years shall not be eligible for reinstatement or reactivation and is expired.

#### **Section 34-11-9. Corporate and partnership practice.**

(a) *Services offered to the public; certificate of authorization required.*

(1) **ENGINEERING OR LAND SURVEYING SERVICES.** -- The practice of or offer to practice engineering and land surveying as defined in Section 34-11-1 by individual professional engineers or professional land surveyors licensed under this chapter through a corporation, partnership, or firm offering engineering services or land surveying services to the public through individual licensed professional engineers or professional land surveyors, as agents, employees, officers, or partners, is permitted subject to this chapter and one or more of the principal officers of the corporation, firm, or partners of the partnership and all personnel of the corporation, partnership, or firm who act in its behalf as professional engineers or professional land surveyors in this state are licensed as provided by this chapter, or are persons lawfully practicing under Section 34-11-14 and the corporation, partnership, or firm has been issued a certificate of authorization by the board as provided herein. All final drawings, specifications, plans, reports, or other engineering or land surveying papers or documents involving the practice of engineering or land surveying as defined in Section 34-11-1 of this chapter which shall have been prepared or approved for the use of such corporation, partnership, or firm or for delivery to any person or for public record within the state shall be dated and bear the signature and seal of the professional engineer or professional land surveyor who prepared or approved them. Nothing in this section should be construed to mean that a certificate of licensure to practice engineering or land surveying shall be held by a corporation, partnership or firm.

(2) **JOINT PRACTICE AUTHORIZED.** -- Nothing in this section prohibits an individual, corporation, firm, or partnership from joining together to practice, offering to practice or holding themselves out as qualified to practice engineering or land surveying provided that the individual, corporation, firm, or partnership meets the requirements of this section.

(3) **LIABILITY GENERALLY.** -- No corporation, firm, or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, officers, or partners by reason of its compliance with this section, nor shall any individual practicing engineering or land surveying as defined in Section 34-11-1 be relieved of responsibility for work performed by reason of employment, association, or relationship with the corporation, partnership, or firm.

(4) **APPLICATION FOR CERTIFICATE OF AUTHORIZATION.** -- A corporation, partnership, or firm desiring a certificate of authorization shall file with the board an application upon a form to be prescribed by the board and the designation required by subdivision (5), accompanied by the licensure fee prescribed by subsection (d) of Section 34-11-5.

(5) **RESIDENT LICENSEE.** -- Every firm, partnership, corporation, or other entity which performs or offers to perform engineering or land surveying services shall have a resident licensed professional engineer or land surveyor in responsible charge of the engineering or land surveying work for each separate office or branch office in which engineering or land surveying services are performed or offered to be performed. The board shall issue rules to ensure adequate engineering supervision and

surveying supervision of all work.

(6) **FILING NAMES AND ADDRESSES OF OFFICERS, ETC., REQUIRED.** -- A corporation or firm shall file with the board, using a form provided by the board, the names and addresses of all officers and board members of the corporation or firm including the principal officer or officers duly licensed to practice engineering or land surveying in this state, who shall be in responsible charge of the practice or offering to practice of engineering or land surveying in this state by the corporation or firm and of the individual or individuals designated as the responsible engineer or land surveyor of each branch office offering or performing Alabama engineering or land surveying. A partnership shall file with the board using a form provided by the board, the names and addresses of all partners, including the partner or partners duly licensed to practice engineering or land surveying in this state, and also of an individual or individuals duly licensed to practice engineering or land surveying in this state who shall be in responsible charge of the practice of engineering or land surveying in this state at the branch offices of the partnership. The same form, giving the same information, shall accompany the annual renewal fee prescribed in subsection (c) of Section 34-11-8. In the event there is a change in the firm name or in any of the partners or principal officers during the year, the changes shall be filed with the board by the corporation, partnership, or firm within 30 days after the effective date of the change.

(7) **ISSUANCE OF CERTIFICATE OF AUTHORIZATION; SUSPENSION; REVOCATION.** -- If all the requirements of this section are met, the board shall issue to the corporation, partnership, or firm a certificate of authorization. The board may refuse to issue a certificate, if any facts exist which would entitle the board to suspend or revoke an existing certificate. Any person aggrieved by an adverse determination of the board may appeal to the circuit court in the manner provided in Section 34-11-13.

(8) **CERTIFICATE REQUIRED OF ORGANIZATION OPERATING UNDER FICTITIOUS NAME.** -- For the purposes of this section, a certificate of authorization shall be required by a corporation, partnership, firm, association, or person practicing under a fictitious name, offering engineering or land surveying services to the public. Where a licensee is practicing engineering or land surveying in his or her own given name, the licensee shall not be required to qualify under this section.

(b) *Incidental engineering or land surveying services; certificate of authorization not required.* -- The practice of engineering or land surveying incidental to or in connection with production, manufacture, transportation, distribution, or communication may be carried on by any person, partnership, firm, or corporation engaged in such production, manufacture, transportation, distribution, or communication and will not require a certificate of authorization. The engineering and land surveying services shall be performed by or under the direction of a professional engineer or professional land surveyor licensed in conformity with this chapter. All drawings, plans, specifications, plats, and reports involving the practice of engineering or land surveying shall when issued be dated and bear the seal or facsimile of the seal, signature, and licensure number of the professional

engineer or land surveyor in responsible charge thereof.

#### **Section 34-11-10. Public work.**

It shall be unlawful for the state or any of its departments, boards or agencies or any county, municipality or political subdivision or any department, board or agency of any county, municipality or political subdivision to engage in the construction of any public work involving the practice of engineering unless the engineering drawings, plans, specifications and estimates have been prepared by and the construction executed under the direct supervision of a professional engineer; provided, that nothing in this chapter shall be held to apply to any public work wherein the expenditures for the complete project of which the work is a part does not exceed \$20,000.00.

#### **Section 34-11-11. Disciplinary action.**

(a) The board shall have the power to reprimand, censure, place on probation, or fine any licensee or certified engineer intern or land surveyor intern or corporation, partnership, or firm holding a certificate of authorization and to suspend, refuse to renew, or revoke the certificate of any licensee or certified engineer intern or land surveyor intern or the certificate of authorization of a corporation, partnership, or firm found guilty of any of the following:

(1) The practice of any fraud or deceit in obtaining or attempting to obtain or renew a certificate of licensure or certificate of authorization.

(2) Any gross negligence, incompetency, violation of the rules of professional conduct prescribed by the board, or any amendment thereof, or misconduct in the practice of engineering or land surveying as a professional engineer, engineer intern, professional land surveyor, or land surveyor intern.

(3) Falsely representing himself or herself as being in responsible charge of engineering work or land surveying.

(4) Permitting his or her seal, or facsimile thereof, to be used by another.

(5) An offense in another jurisdiction resulting in revocation, suspension, or voluntary surrender, to avoid disciplinary proceedings, of a license or certificate of licensure, including any agreement or stipulation executed by a licensee to avoid formal disciplinary proceedings.

(b) The board shall have the power to impose any or all of the disciplinary penalties set forth in this section against a corporation, partnership, or firm holding a certificate of authorization, when any one or more of the agents, employees, officers, partners, or owners of the corporation, partnership, or firm, licensed or nonlicensed, have committed any act, or have been guilty of any conduct, which could authorize the imposition of any of the disciplinary penalties set forth in this section. The acts or conduct by the persons must have been related to the practice of or offer to practice of engineering or land surveying by the corporation, partnership, or firm and that the acts or conduct must have been performed or oc-

curred within the scope of the employment of any such person and with the authorization, ratification, or approval of an officer, director, principal, partner, or owner of the corporation, partnership or firm.

(c) Any person may file a complaint alleging a violation of this section against any individual licensee, certified intern, or corporation, partnership, or firm holding a certificate of authorization. The complaints shall be in writing and shall be filed with the executive director of the board.

(d) The board may designate a person or persons to investigate and report to it on any matter related to its lawful duties and may employ legal counsel as the board may deem necessary or desirable. An investigation may be made upon receipt of a complaint or may be initiated by the board. The board may resolve violations by agreement between the board and the licensee with or without the filing of formal charges.

(e) Following an investigation, charges may be filed against any individual licensee, certificated intern, or corporation, partnership, or firm holding a certificate of authorization. The charges shall conform to the Administrative Procedure Act.

(f) With the consent of the licensee, the board may conduct an informal hearing without meeting the requirements of the Administrative Procedure Act at which no action shall be taken other than a reprimand, public or private.

(g) All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within a reasonable time.

(h) The time and place for the hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of the hearing, shall be personally served on or mailed to the last known address of the individual licensee, certified intern, or corporation, partnership, or firm holding a certificate of authorization, at least 30 days before the date fixed for the hearing. At any hearing the accused individual licensee, certified intern, or corporation, partnership, or firm holding a certificate of authorization shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him, her, or them, and to produce evidence and witnesses in his or her or their own defense. If the accused fails or refuses to appear, the board may proceed to hear and determine the validity of the charges.

(i) If after the hearing three or more members of the board vote in favor of finding the accused guilty, the board shall impose one or more of the disciplinary penalties set forth in this section. Any fine imposed may not exceed two thousand five hundred dollars (\$2,500) for each count or separate offense. The written decision of the board shall be delivered personally to the accused or sent by certified mail, return receipt requested, to the last known address of the accused.

(j) If disciplinary action from the a hearing results in imposing a fine against a licensee, certified intern, or certificated corporation, partnership, or firm, the board shall not renew the annual certificate for this licensee,

certified intern, or certificated corporation, partnership, or firm until the fine is paid in full. In the event that the fine is subsequently set aside on judicial review, as provided in the Alabama Administrative Procedure Act, the licensee, certified intern, or corporation, partnership, or firm holding a certificate of authorization shall be entitled to a prompt refund of the amount of the fine, but shall not be entitled to interest thereon.

(k) The board shall revoke the certificate of any licensee or certified intern who has been determined to be one of the following:

(1) Declared non compos mentis by a court of competent jurisdiction.

(2) Convicted of or entered a plea of guilty or nolo contendere to any crime under the laws of the United States or any state or territory thereof, which is a felony, whether related to practice or not and convicted of or entered a plea of guilty or nolo contendere to any crime, whether a felony, misdemeanor, or otherwise, an essential element of which is dishonesty or which is directly related to the practice of engineering or land surveying.

(l) When a member of the board is unable to continue the hearing either by disqualification or any other reason, and the board is unable to reach a quorum, the Governor shall appoint as many ex officio members as is necessary to reach a quorum from a list of three persons submitted for each place by the committee of seven as specified in Section 34-11-30. These ex officio members shall serve on the board only for that hearing for which they were appointed and they may be reappointed for subsequent hearings if necessary.

(m) The licensee shall be responsible for the cost of the disciplinary action if found guilty.

#### **Section 34-11-12. Reissuance of revoked certificates; duplicate certificates.**

The board, for reasons it may deem sufficient, may reissue a certificate of licensure to any person or certificate of authorization to any corporation, partnership, or firm whose certificate has been revoked, provided three or more members of the board vote in favor of reissuance. The board shall not consider reissuance of a certificate to any person whose certificate has been revoked because of non compos mentis until after the person has been declared to have fully regained his or her competency by a court of competent jurisdiction. The board shall not consider the reissuance of a certificate to a person who was convicted of a felony or entered a plea of guilty or nolo contendere to a felony until the civil rights of the person have been restored, and then a unanimous approval vote of the board concerning the reissuance shall be required. A new certificate to replace any certificate revoked, lost, destroyed, or mutilated or for any other reason may be issued, subject to the rules of the board, and a charge of twenty-five dollars (\$25) shall be made for such issuance.

#### **Section 34-11-13. Appeals.**

Any person, corporation, partnership or firm who shall feel aggrieved by the denial of a certificate by the

board or by any disciplinary action by the board taken pursuant to Section 34-11-11 may appeal therefrom within 30 days to the Circuit Court of Montgomery County, Alabama, exclusively, notwithstanding the provisions of the Alabama Administrative Procedure Act; and only after the filing of the notice of appeal, shall judicial review be as provided for in the Alabama Administrative Procedure Act.

#### **Section 34-11-14. Persons and acts exempt from chapter.**

This chapter shall not be construed to prevent or to affect any of the following:

(1) The practice of any other legally recognized profession or trade.

(2) The work of an engineer intern or land surveyor intern, employee, or a subordinate of any person holding a certificate of licensure under this chapter, or any employee of a person practicing lawfully under paragraph b of subdivision (1) of Section 34-11-4, if the work is done under the responsibility and supervision of a person holding a certificate of licensure under this chapter or a person practicing lawfully under paragraph b of subdivision (1) of Section 34-11-4.

(3) The practice of officers and employees of the government of the United States while engaged within this state in the practice of engineering or land surveying for the government. This exception does not extend to any engineer or land surveyor engaged in the practice of professional engineering or land surveying whose compensation is based in whole or in part on a fee.

(4) The practice of engineering or land surveying with respect to transportation or utility facilities by any transportation company or public utility subject to regulation by the Alabama Public Service Commission, the Federal Aviation Administration, the Federal Communications Commission, the Federal Energy Regulatory Commission, or the Nuclear Regulatory Commission, including its parents, affiliates, or subsidiaries; or by the officers and employees of any transportation company or public utility including its parents, affiliates, or subsidiaries. This exception shall not extend to any engineer or land surveyor engaged in the practice of engineering or land surveying whose compensation is based in whole or in part on a fee.

(5) The practice of engineering or land surveying by any person who is employed by the Alabama Department of Transportation prior to January 1, 1997, in any engineering or engineering assistant classification series under the State of Alabama Personnel Board, merit system.

(6) The mere execution as a contractor of work designed by a professional engineer or the supervision of the construction of such work as a foreman or superintendent.

(7) The performance of engineering services which are purely incidental to the practice of architecture by registered architects, or their employees, or subordinates under their responsible supervising control.

(8) The performance of engineering services which are purely incidental to the practice of geology by registered geologists, their employees, or subordinates under their responsible charge.

#### **Section 34-11-15. Violations; penalties.**

(a) Any person who shall practice, offer to practice, or hold himself or herself out as qualified to practice engineering or land surveying in this state or use in connection with his or her name or otherwise assume, use, or advertise any title or description including, but not limited to, the term engineer, engineers, engineering, or professional engineer, professional engineers, or professional engineering, or land surveyor, land surveyors, land surveying, or professional land surveyor, professional land surveyors, or professional land surveying, without being licensed or exempted in accordance with this chapter, or any person presenting or attempting to use as his or her own the certificate of licensure or the seal or facsimile thereof of another, or permitting his or her own certificate of licensure, seal or facsimile thereof to be used by another person, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining, or attempting to obtain a certificate of licensure, or any person who shall falsely impersonate any other licensee of like or different name, or any person who shall attempt to use an expired, suspended, surrendered, or revoked certificate of licensure, or any person who shall violate this chapter, shall be guilty of a Class A misdemeanor and punished as provided by law. Each day of the violation shall be a separate offense.

(b) Any corporation, partnership, or firm who violates any part of this chapter shall be guilty of a Class A misdemeanor and punished as provided by law. Each day of the violation shall be a separate offense.

(c) It shall be the duty of all duly constituted officers of law of this state, or any political subdivision thereof, to enforce this chapter, and to prosecute any persons, firms, partnerships, or corporations for violating this chapter. The Attorney General of the state or his or her assistants shall act as legal advisor to the board and render legal assistance to the board as may be necessary in carrying out this chapter. The board has the right to obtain private legal counsel as the need arises.

#### **Section 34-11-16. Violations; civil penalties; notice and hearing; subpoena power; appeal.**

(a) In addition to any other provisions of law, the board may enter an order assessing a civil penalty against any non-licensed person, corporation, or other entity found guilty by the board of, but not limited to, the following violations of this chapter.

(1) Engaging in the practice or offer to practice of engineering or land surveying in this jurisdiction without being licensed in accordance with this chapter.

(2) Using or employing the words "engineer," "engineering," "land surveyor," "land surveying," or any modification or derivative thereof in its name or form of business activity, except as authorized in this chapter.

(3) Presenting or attempting to use the certificate of licensure or the seal of another licensed engineer or licensed land surveyor.

(4) Giving false or forged evidence of any kind to the board or a member of the board in obtaining or attempting to obtain a certificate of licensure.

(5) Falsely impersonating another licensed engineer or licensed land surveyor of like or different name.

(6) Using or attempting to use a revoked or non-existent certificate of licensure.

(b) The board shall determine the amount of the civil penalty which shall be paid to the State General Fund. The amount shall not exceed two thousand five hundred dollars (\$2,500) for each and every separate offense.

(c) Before issuing an order under this section, the board shall provide the person written notice and the opportunity to request, within 30 days of notice by the board, a hearing on the record.

(d) Pursuant to the proceedings under this section, the board may issue subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence, and may request the Attorney General to bring an action to enforce a subpoena.

(e) A person aggrieved by the levy of a civil penalty under this section may file an appeal to the Circuit Court of Montgomery County exclusively for judicial review of the penalty within 30 days notwithstanding the Administrative Procedure Act. Unless an appeal is taken, or the penalty paid, the order of the board imposing the civil penalty shall become a judgment.

(f) If a person fails to pay a civil penalty within 30 days after entry of an order pursuant to subsection (a) or if the order is stayed pending an appeal, within 10 days after the court enters a final judgment in favor of the board of an order appealed pursuant to subsection (e), the board shall notify the Attorney General. The Attorney General may commence a civil action to recover the amount of the penalty, plus attorney's fees and costs.

(g) The cost to the board of the action shall be paid by the respondent if found in violation.

## **ARTICLE 2. BOARD OF REGISTRATION.**

### **Section 34-11-30. Creation; composition; appointment; oath of office; terms of office.**

A State Board of Licensure for Professional Engineers and Land Surveyors is created. It shall be the duty of the board to administer this chapter. The board shall consist of four professional engineers and one professional land surveyor, each of whom shall be appointed by the Governor from a list of three persons nominated by a committee. To the extent possible, the nominating committee and the Governor shall select those persons whose appointments ensure that the membership of the

board is inclusive and reflects the racial, gender, geographic, urban/rural, and economic diversity of the state. The nominating committee shall consist of one professional engineer or professional land surveyor, respectively, appointed or elected by an active Alabama chapter of each of the following societies: American Society of Civil Engineers; Society for Mining, Metallurgy and Exploration, Inc; American Institute of Chemical Engineers; Institute of Electrical and Electronics Engineers, Inc; American Society of Mechanical Engineers, International; Alabama Society of Professional Engineers; and Alabama Society of Professional Land Surveyors. Any other society with active chapters in the state having membership qualifications comparable to those of the above-named societies may petition the board for membership on the committee, and the board may grant the membership. Nominees shall have the qualifications required by Section 34-11-31. Nominations shall be made by a majority vote of the committee present at the same time at a meeting called by the executive director of the board, who shall advise the above named societies of the meeting at least 30 days before the meeting is held. Each member of the board, before beginning his or her term of office, shall file with the Secretary of State his or her written oath or affirmation for the faithful discharge of his or her official duties. The members of the board shall continue to serve under this chapter until their respective terms expire. On the expiration of the term of each member, the Governor shall in the manner provided in this section appoint for a term of five years a professional engineer or professional land surveyor having the qualifications required by Section 34-11-31 to take the place of the member whose term on the board is about to expire. Each member shall hold office until the expiration of the term for which the member is appointed or until a successor is duly appointed and qualified.

### **Section 34-11-31. Qualifications of members.**

Each member of the board shall be a citizen of the United States and a resident of this state, a licensed professional engineer or licensed professional land surveyor who holds an unexpired certificate under this chapter, who has been engaged in the practice of engineering or land surveying, respectively, for at least 12 years, and who has been in responsible charge of important engineering or land surveying, respectively, work for at least five years.

### **Section 34-11-32. Compensation and expenses.**

Each member of the board shall receive the sum of one hundred dollars (\$100) per diem when actually attending to the work of the board or any of its committees and for the time spent in necessary travel and shall be reimbursed for traveling expenses as provided in Article 2 of Chapter 7 of Title 36, and incidental and clerical expenses necessarily incurred in carrying out this chapter.

### **Section 34-11-33. Removal of members; vacancies.**

The governor may remove any member of the board for misconduct, incompetency, neglect of duty or for any other sufficient cause. Vacancies in the membership of the board by death, resignation or for any reason shall be

filled for the unexpired term by appointment by the governor as provided in Section 34-11-30.

**Section 34-11-34. Meetings; legal office; officers; quorum.**

The board shall hold at least two regular meetings each year. The two regular meetings of the board shall be held in the City of Montgomery, Alabama. The legal office of the board shall be located in the City of Montgomery. Special meetings shall be held at the time and place as the rules of the board may provide. Notice of all meetings shall be given as the rules provide. The board shall elect or appoint annually the following officers: a chair, a vice chair, and a secretary. A quorum of the board shall consist of not less than three members.

**Section 34-11-35. Powers generally.**

(a) The board shall have the power to adopt and amend by-laws, rules and regulations, not inconsistent with the constitution and laws of this state, as may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall have the power to adopt and amend from time to time rules of professional conduct for professional engineers, engineer interns, professional land surveyors, land surveyor interns, and corporations, partnerships, or firms holding certificates of authorization. The board shall adopt and have an official seal.

(b) In carrying into effect its duties in any case involving the revocation of licensure or any disciplinary proceeding involving a licensee or the holder of a certificate of authorization or practicing or offering to practice without licensure, or false statement in connection with an application for licensure, the board may, under the hand of its chair and the seal of the board, subpoena witnesses and compel their attendance, and may also require the production of books, papers, documents, and other pertinent data. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person refuses to obey any subpoena issued, or refuses to testify or produce any books, papers, or documents, the board may present its petition to the Circuit Court of Montgomery County, Alabama, setting forth the facts, and thereupon the Circuit Court of Montgomery County shall, in a proper case, issue its subpoena to such person, requiring his or her attendance before the Circuit Court of Montgomery County and there to testify or to produce such books, papers and documents, or data. Any person failing or refusing to obey the subpoena or order of the Circuit Court of Montgomery County may be proceeded against in the same manner as for refusal to obey any other subpoena or order of the Circuit Court of Montgomery County.

(c) The board is charged with the duty of seeing that this chapter is enforced. The board shall investigate any complaint relating to the violation of this chapter and, should a violation be indicated, the board shall proceed as provided for under Sections 34-11-11, 34-11-15, and 34-11-16.

(d) The board, for good cause, may apply for relief by injunction, without bond, to restrain any person, firm, partnership, or corporation from the commission of any

act which is prohibited by this chapter. In such proceedings it shall not be necessary to allege or prove either that an adequate remedy at law does not exist, or that substantial and irreparable damage would result, from the continued violation thereof. Application for the injunction may be made to the Circuit Court of Montgomery County, Alabama or the circuit court of the county in which it is alleged that the violation is about to occur, at the request of the board. The injunction may not be granted ex parte, and any judgment or decree may be appealed in the manner prescribed by law to the Supreme Court of Alabama.

(e) No action or other legal proceedings for damages shall be instituted against the board, any board member, or employee of the board for any act done in good faith and in the intended performance of any power granted under this chapter or for any neglect or default in the performance or exercise in good faith of any duty or power.

**Section 34-11-36. Receipts and disbursements.**

The executive director of the board shall receive and account for all money derived under this chapter, and shall pay it monthly to the State Treasurer, who shall keep the money in a separate fund to be known as the "Professional Engineers and Professional Land Surveyors Fund." The fund shall be kept separate and apart from all other money in the Treasury, and shall be paid out only by warrant of the Comptroller upon the Treasurer, upon itemized vouchers, approved by the executive director of the board. No funds shall be withdrawn or expended except as budgeted and allotted according to Article 4 of Chapter 4 of Title 41. Any funds or money in the hands of the State Treasurer, known as the Professional Engineers and Land Surveyors Fund, at the end of the state fiscal year in excess of that amount equal to 25 percent of the budget of the board for the previous fiscal year shall be transferred into the General Fund of the state. However, in the event that the Board elects to implement a biennial license, then the above transfer into the General Fund shall only apply at the end of the non-license year of the biennial license cycle. The money, properties, records, and other things of value owned by or allocated to the fund, the board, or the executive director of the board in his or her capacity as such, serving at the time of enactment of this chapter, shall become the property of and be allocated respectively to the fund, the board, or the executive director of the board under this chapter. The executive director of the board shall give a surety bond to the state in a sum as the board may determine. The premium on the bond shall be regarded as a proper and necessary expense of the board and shall be paid out of the fund. The executive director of the board shall receive a salary as determined by the board, in addition to compensation and expenses provided for in Section 34-11-32. The board may employ an executive director and, when necessary, an assistant executive director and fix their compensation and duties. The board may employ clerical or other assistants, subject to the provisions of the Merit System Act, and may make expenditures from the fund for any purpose which in the opinion of the board is reasonably necessary for the proper performance of its duties under this chapter, including the expenses of the board's delegates to regional and national meetings of, and membership dues to, a national

examination organization for engineers and land surveyors selected by the board and any of its subdivisions. Under no circumstances shall the total amount of warrants issued by the Comptroller in payment of the expenses and compensation provided for in this chapter exceed the amount provided therefor by the Legislature in the general appropriation or other appropriation bills.

**Section 34-11-37. Records and reports; confidentiality.**

(a) The board shall keep a record of its proceedings and a register of all applications for licensure, which register shall show all of the following:

- (1) The name, age, and residence of each applicant.
- (2) The date of the application.
- (3) The place of business of the applicant.
- (4) The educational and other qualifications of the applicant.
- (5) Whether or not an examination was required.
- (6) Whether the applicant was rejected.
- (7) Whether a certificate of licensure was granted.
- (8) The date of the action of the board.
- (9) Any other information deemed necessary by the board.

(b) The board shall also keep on file a written statement under oath from that each applicant that he or she will abide by the rules of professional conduct prescribed by the board, which oath shall be a part of his or her application for licensure.

(c) The records of the board shall be evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the executive director of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

(d) Annually, as of September 30, the board shall submit to the Governor a report of its transactions of the preceding year and a complete statement of the receipts and expenditures of the board, attested by affidavits of its chair and its secretary.

(e) Board records and papers of the following class are of a confidential nature and are not public records: examination material for examinations not yet given; file records of examination problems and solutions; exam scores; letters of inquiry and reference concerning applicants; transcripts of college courses and grades; board inquiry forms concerning applicants; pending and closed complaints and investigative files which shall remain confidential until an actual formal hearing may commence; and all other materials of like confidential nature.

**ADMINISTRATIVE CODE  
(Rules and Regulations)**

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**Foreword:**

These rules and regulations are issued under the authority of Section 35(a) in Article 2 of Chapter 11 of Title 34 of the Code of Alabama 1975. They cover specific requirements and procedures necessary for proper administration of the Alabama Law regulating the practice of engineering and land surveying. They supersede all previous administrative rules and regulations.

**CHAPTER 330-X-1  
ORGANIZATION, ADMINISTRATION  
AND PROCEDURE**

330-X-1-.01	Purpose
330-X-1-.02	General Description of Organization and Operation
330-X-1-.03	Officers
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**330-X-1-.01 Purpose.** The Alabama Board of Licensure for Professional Engineers and Land Surveyors was created to protect the public by helping to safeguard life, health and property, and to promote the public welfare by

providing for the licensing and regulation of persons in the practices of engineering and land surveying. This purpose is achieved through the establishment of minimum qualifications for entry into the professions of engineering and land surveying, through the adoption of rules defining and delineating unlawful or unethical conduct, and through swift and effective discipline for those individuals or entities who violate the applicable laws or rules promulgated thereunder.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-1-.02 General Description of Organization and Operation.** The Board is an independent agency of the State of Alabama. All costs of operating the Board, including administrative, secretarial, clerical, legal, and investigative are paid from legislative appropriation of monies collected by the Board. The Attorney General's Office provides for legal services to the Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-15; Section 34-11-35; Section 34-11-36, Code of Alabama 1975)

**330-X-1-.03 Officers.**

(1) Election. The Board shall elect annually the following officers: Chair, Vice-Chair, and Secretary.

(2) Compensation and Expenses. Board Members shall be compensated on a per diem basis for days actually spent in performance of their duties and, additionally, members of the Board shall be reimbursed for all expenses incurred in performance of their duties as provided by Section 34-11-32 and Section 36-7-20 of the Code of Alabama 1975.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-32; Section 34-11-35; Section 36-7-20, Code of Alabama 1975)

**330-X-1-.04 Employment of Personnel.** The Board may employ investigators, attorneys, agents, employees, and assistants, as may be necessary, to bring about and maintain the administration and enforcement of the Alabama Law regulating the practice of engineering and land surveying and these rules.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-11; Section 34-11-15; Section 34-11-35; Section 34-11-36, Code of Alabama 1975)

**330-X-1-.05 Executive Director.** The Board shall employ an Executive Director who shall be responsible for the administration of Board policy. The Board may also employ an Assistant Executive Director. The Executive Director is designated as agent for the Board for service of legal process upon the Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35; Section 34-11-36, Code of Alabama 1975)

**330-X-1-.06 Rules of Order.** All proceedings of the Board shall be governed by Roberts Rules of Order, latest revised edition, except during disciplinary hearings and except where otherwise provided in these rules.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-1-.07 Meetings.**

(1) Meetings may be called by the Chair or by a quorum of the Board.

(2) Each member of the Board shall be given at least seven days notice of the time, place, and purpose of any regular or special meeting by the Chair or the Executive Director, unless such notice is waived by the individual member or unless such member is present at the called meeting.

(3) The Board shall hold at least two regular meetings each year and these meetings shall be held in Montgomery, Alabama. Special meetings may be called as necessary and may be held at any place agreed upon by a quorum of the Board.

(4) The Executive Director will ensure that reasonable notice to include time, date, and place is given to the public for all meetings.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-34; Section 34-11-35, Code of Alabama 1975)

**330-X-1-.08 Questions of Procedure and Evidence.** The Chair of the Board shall in accordance with these rules, and except as otherwise provided in these rules, rule upon all questions of procedure and, in the event that evidence is taken, on the admissibility of that evidence. The decision of the Chair shall be final.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-1-.09 Voting.** All members of the Board, including the Chair, are entitled to vote and to make or second motions. A majority of those members of the Board present and voting on any matter shall decide that matter before the Board, except on procedural and evidentiary matters which are provided for in Rule 330-X-1-.08. The Chair shall vote as a member of the Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-1-.10 Use of Forms.** All applications and requests for which the Board has prescribed a form must be made on the prescribed form or in the format provided by the Board. Copies of forms in use and instructions for their completion are available from the Executive Director.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-5, Section 34-11-9, Section 34-11-35, Section 41-22-4, Code of Alabama 1975)

**330-X-1-.11 Records.**

(1) Public record for the purpose of these rules means all Board records which are reasonably necessary to record the business and activities required to be done or carried on by the Board so that the status and condition of such business and activities can be known by the public. The results of disciplinary hearings are considered public records. Records which do not constitute public records include, but are not limited to, those received by a public officer in confidence, sensitive personnel records, licensee's records, examination material, applicant's records, application references, complaints against licensees and non-licensees, and records the disclosure of which would be detrimental to the best interests of the public.

(2) Public records are available for inspection at the Board office during regular business hours.

(3) Any person wishing to obtain copies of public records may request such copies from the Executive Director, and will be supplied copies upon payment of the cost of copying, handling and postage, which costs will be estimated and set by resolution by the Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35; Section 34-11-37; Section 41-22-4(1)(c); Code of Alabama 1975)

**330-X-1-.12 Declaratory Rulings.**

(1) The Board may issue declaratory rulings to any person substantially affected by a rule with respect to the validity of the rule, or with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by the Board, or with respect to the meaning and scope of any order of the Board. Such rulings shall be issued provided:

(a) The petitioner shows that he or she is substantially affected by the rule in question,

(b) Sufficient facts are supplied in the request to permit the Board to make a valid determination, and

(c) The request arises from an actual question or controversy.

(2) A petition for a declaratory ruling shall be submitted on a form provided by the Board.

(3) Such rulings will be made in accordance with the Alabama Administrative Procedure Act, Section 41-22-11, Code of Alabama 1975.

Effective date: October 1, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35; Section 41-22-11, Code of Alabama 1975)

**CHAPTER 330-X-2  
DEFINITIONS**

330-X-2-.01 Definitions of Terms

### 330-X-2-.01 Definitions of Terms.

(1) Section 34-11-1, Code of Alabama 1975 provides for definitions of the following terms: Board, engineer or professional engineer, engineer intern, practice of engineering, land surveyor or professional land surveyor, land surveyor intern, practice of land surveying, practice and offer to practice, and responsible charge.

(2) The terms "consultation," "investigation," "evaluation," and "planning" as used in the definition of the practice of engineering set forth in Section 34-11-1(7), Code of Alabama 1975, shall include, but are not limited to, services provided by testing laboratories involving the selection of proper tests to be performed (consultation and planning) when done for the purpose of developing design criteria or for the purpose of determining cause of failures (investigation) and analyses to provide recommendations for the foundation and materials to be used in the design or judgment which relate to the acceptability of structural or foundation construction (evaluation). Testing and inspection do not constitute the practice of engineering (1) when they are performed in accordance with previously written standards or specifications or satisfy the standards setting forth the methods and techniques to be followed by the testing agency and no judgement is required other than a comparison of the materials in place with the previously specified standards or (2) when testing or inspection data are collected in conformance with a specific standard.

Any attempt to determine the structural integrity or capacity of a building, or any sub-system thereof, other than detection of problems by visual inspection or normal operation of the user's controls, constitutes the practice of engineering.

(3) The terms "direct control" and "personal supervision" as used in Section 34-11-1(9) will be construed by this Board to mean that the licensed professional engineer or licensed professional land surveyor providing such supervision was in responsible charge of the engineering or land surveying work, shall have made decisions on technical matters of policy and design and shall have exercised his or her professional judgment in all engineering or land surveying matters that are embodied in the design and the plans, specifications, land surveys, or other documents involved in the work. The term "supervision of construction" as it relates to an engineer shall mean the general oversight of an engineering project as it relates to the implementation of a design during construction. By applying his or her seal, and/or signature, and date to the final documents, the licensee signifies compliance with the requirements of these definitions and the Rules of Professional Conduct (Code of Ethics) and accepts responsibility therefor.

(4) The term "gross negligence" as used in Section 34-11-11(a)(2), Code of Alabama 1975, shall mean the practice of engineering or land surveying by a licensee characterized by the reckless disregard for the rights, safety, or welfare of others, which could result in injury or damage to life or property or financial loss.

(5) The term "incompetency" as used in Section 34-11-11(a)(2), Code of Alabama 1975, shall mean the practice of engineering or land surveying by a licensee who is either incapable of exercising ordinary care and diligence, or who lacks the ability and skill necessary to properly perform the duties he or she undertakes, or who is not qualified by experience and/or education to perform adequately and competently.

(6) The term "misconduct" as used in Section 34-11-11(a)(2), Code of Alabama 1975, shall mean the practice of engineering or land surveying by a licensee who performs any acts, causes omissions or makes any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner whatsoever discredits or tends to discredit the profession of engineering or land surveying.

(7) The term "principal officer" of the firm as used in Section 34-11-9, Code of Alabama 1975, shall also be construed to mean "principal engineer" or "principal land surveyor" which is defined as the senior technical person who is a licensed professional engineer or licensed professional land surveyor and who makes significant technical and/or contractual judgements on behalf of the firm which would affect the firm's professional reputation and liability.

(8) The term "Certification" when used in conjunction with the sealing of documents shall mean a statement signed, sealed, and dated by a licensed professional engineer or licensed professional land surveyor representing that the engineering or land surveying services addressed therein, as defined in Section 34-11-1, Code of Alabama 1975, have been performed by the licensed professional engineer or licensed professional land surveyor based on knowledge and information in accordance with commonly accepted procedures consistent with acceptable standards of practice, and is not a guaranty or warranty, either expressed or implied.

(9) The acronym NCEES as used in Chapter 330-X means the National Council of Examiners for Engineering and Surveying.

(10) The term "jurisdiction" shall mean any state, district, or territory of the United States.

(11) The term "Signature" shall mean handwritten or digital as follows:

(a) A handwritten message identification containing the name of the person who applied it; or

(b) A digital signature that is an electronic authentication process attached to or logically associated with an electronic document. The digital signature must be:

1. Unique to the person using it,
2. Capable of verification,
3. Under the sole control of the person using it, and

4. Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed

A digital signature that uses a process approved by the board will be presumed to meet the criteria set for in subsections (b)1. through (b)4. above.

(12) The term "Inactive Licensee" shall mean a person who is totally separated from the professions of engineering or land surveying in Alabama.

(13) The term "Retired Licensee" shall mean a person who is totally retired and is no longer employed in any business or occupation in Alabama.

(14) The term "Lapsed License" shall mean a license that has not been renewed as of the deadline for renewing. A license not renewed will remain in a lapsed status for a maximum of four years.

(15) The term "Expired License" shall mean a license that has been lapsed for more than four years.

(16) The term "Responsible Charge" shall mean direct control, personal supervision of, and legal responsibility for all engineering work or land surveying work performed. This responsible charge shall be of such a nature that the client may reasonably presume that the licensed engineer or land surveyor which he has employed is the provider of the professional services.

(17) The term "Base Map" shall mean a control map showing certain fundamental information, copies of which are used to compile additional data of specialized nature; a master map.

(18) The term "principal" shall mean an engineer or land surveyor licensed by this board and who has been designated pursuant to Section 330-X-15.01 by the firm. The principal is responsible for the engineering or surveying work in Alabama and/or for projects or property within Alabama offered or provided by the firm. A licensee may not be designated as a principal for more than one firm when the firms are at different physical locations. An engineer or surveyor who renders occasional, part-time, or consulting engineering or surveying services to, or for, a firm may not be designated as a principal. The principal's responsibilities include:

a. Renewal of the certificate of authorization and notification to the Board of any change in principal.

b. Overall supervision of the firm's licensed and subordinate personnel providing the engineering or surveying work in Alabama.

c. Institution and adherence of policies of the firm that are in accordance with the Rules of Professional Conduct.

(19) The term "testimony" as used in Sections 34-11-1(7) and 34-11-1(8), Code of Alabama 1975, shall mean a declaration made by a witness under oath or affirmation related to engineering and surveying activities in the State of Alabama.

Effective date: September 10, 1982. Last amendment

effective: January 19, 2005.

(Auth: Section 34-11-1; Section 34-11-7; Section 34-11-8; Section 34-11-9; Section 34-11-35, Code of Alabama 1975)

## **CHAPTER 330-X-3 APPLICATIONS**

330-X-3-.01	Form of Application
330-X-3-.02	Reconsideration of Denied Applications
330-X-3-.03	Disposal of Applications

### **330-X-3-.01 Form of Application.**

(1) All applications for licensure shall be made on a printed form or in the format provided by the Board and no applications made otherwise will be accepted. Applications must be clearly typewritten or computer printed in black ink and all questions must be accurately and thoroughly answered. An application not properly completed, containing all of the information required, or accompanied by the required fee will be returned with a statement of the reason for return. As per Section 34-11-5(e), Code of Alabama, 1975, application fees will not be refunded.

(2) Applications for licensure as a professional engineer or as a professional land surveyor or for certification as an engineer intern or a land surveyor intern shall be subscribed and sworn to before a Notary Public or other persons qualified to administer oaths.

(3) The signature of the applicant on the application form certifies the subscription to and the conformance with this Administrative Code of the Board including the Rules of Professional Conduct.

(4) All applications, application fees, and supporting documents must be received by the below listed deadlines. Applications and any information pertaining to the application received after the deadline will be deferred for review for the next regularly scheduled Board meeting. It is the responsibility of the applicant to assure that all submissions are on file in the Board office prior to the deadlines that follow:

(a) Engineer intern - January 15 or July 1 - application, application fee and examination fee.

(b) Land surveyor intern - January 15 or July 1 - application, application fee, and examination fee.

(c) Professional engineer by examination and professional land surveyor by examination - January 15 or July 1 - application, application fee, examination fee, reference forms, experience verification forms, educational transcripts and verifications of examinations in other jurisdictions.

(d) Professional engineer by comity - Board meeting agenda deadline - application, reference forms, experience verification forms, educational transcripts, verifications of examinations in other jurisdictions, application fee, and licensure fee.

(e) Professional land surveyor licensed in another jurisdiction - Board meeting agenda deadline - application, reference forms, experience verification forms, educational transcripts, verifications of examinations in other jurisdictions, examination fee, and application fee.

(f) Application for re-examinations – January 15 or July 1 – re-application form and examination fee.

(5) Withholding information, misrepresentation, or untrue statements will be cause for denial of the application.

(6) Licensure as a professional engineer by comity is granted provided the applicant's qualifications meet the requirements of Chapter 11, Title 34, Code of Alabama 1975, as amended, effective at the time of application, which includes the required education, experience, and the passing of two Board approved eight-hour written examinations given by Alabama or another jurisdiction and the applicant is currently licensed as a professional engineer and in good standing within another jurisdiction. The Executive Director is authorized to review and evaluate the applications of all comity applicants to determine if they meet or exceed the criteria of a "Model Law Engineer" as defined in the National Council of Examiners for Engineering and Surveying (NCEES) Model Law. If the applicant meets or exceeds these requirements, the Executive Director may issue a contingent license authorizing that individual to offer or provide engineering services in this state. A listing of all engineers issued contingent licenses will be placed on the agenda of the next meeting of the Board for consideration by the Board. If in the opinion of the Board, the qualifications of the applicant are insufficient, the contingent license will be immediately terminated and the applicant will be notified.

(7) If a current, complete, properly executed NCEES Record is provided the professional engineer or professional land surveyor applicant will be required to complete only the sections of the Alabama application form dealing with general information, licensure in other jurisdictions, and the affidavit.

(8) For all applicants other than those holding an NCEES Record, when there is a degree required, the Board requires an official transcript to be sent directly from each school where the applicant received an engineering, engineering technology, land surveying, land surveying technology or related science degree. The transcript(s) must show degree(s) issued and date of issuance. It is the responsibility of the applicant to see that the transcript is sent directly from the institution to the Board office, and no action will be taken by the Board until such information is received. A graduate of a foreign institution will be required to have his or her transcript evaluated by an agency specified by the Board. In the event it is impossible to have a transcript sent directly from the institution to the Board, the Board reserves the authority to evaluate and accept a transcript received from a different source.

(9) If an applicant for examination or comity has been convicted of a felony and has had his or her civil rights revoked, the application can be approved for the fundamentals examination but cannot be approved for the professional examination, licensure, or certification until

the civil rights of the person have been restored and then a unanimous approval of the board shall be required.

Effective date: September 10, 1982. Last amendment effective: January 19, 2005.

(Auth: Section 34-11-5; Section 34-11-35, Code of Alabama 1975)

### **330-X-3-02 Reconsideration of Denied Applications.**

(1) A denied application may be reconsidered by the Board if written notice of appeal is received by the Executive Director within thirty days after the applicant has been notified of the ruling of the Board.

(2) A hearing shall be held within a reasonable time after receipt of the notice of appeal, or at such time agreed upon by stipulation between the applicant and the Executive Director.

(3) At least a quorum of the Board must be present to hold a hearing.

(4) Evidence, including oral testimony, shall be freely admitted. The applicant shall be allowed to have counsel present if desired.

(5) The Board shall issue a final decision within thirty days of the date of the hearing, which shall include findings of fact and official action taken. The applicant shall be delivered a copy of the decision by first class mail.

(6) The decision of the Board may be appealed to the circuit court of Montgomery County, as provided in Code of Alabama 1975, Section 34-11-13, within thirty days of the decision of the Board.

(7) The record on appeal shall be certified by the Executive Director of the Board, and shall include the entire record including a transcript of the hearing, if a transcript is made.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

### **330-X-3-03 Disposal of Applications.**

(1) Approved Applications - When the Board, after due consideration of an application and of information pertaining thereto, is satisfied that the applicant is eligible for certification as an engineer intern or land surveyor intern, or licensure as a professional engineer or professional land surveyor, under any section of the law, the applicant will be granted a certification or license, and the applicant will be notified by the Executive Director. The application and all pertinent information will be made a portion of the individual's permanent file kept by the board office in accordance with its retention of records procedures.

(2) Deferred Applications - If an applicant's experience is considered inadequate upon Board review, but the Board believes the minimum legal requirements may be met within one year, the application may be deferred by the Board for up to one year. The applicant will be advised of the basis for holding the application, and what addi-

tional information is required to be submitted.

(3) **Denied Applications** - When the Board, after due consideration of an application and of information pertaining thereto finds that the applicant is not eligible for certification or licensure under any section of the Law, the applicant will be denied certification or licensure. The applicant will be notified of the action of the Board by the Executive Director, and for further consideration the applicant may submit a new application, without fee, after securing the necessary eligibility, provided the resubmittal is within five years. An applicant, who is denied licensure or denied the opportunity to take an examination, has the opportunity to meet with the Board and/or to appeal the Board's decision as provided by Section 34-11-13 and Sections 41-22-12 through 41-22-21, Code of Alabama 1975.

(4) **Inactive Applications** - If all necessary information required for Board review is not received within six months after the application has been filed, the application will be placed in the inactive file and the applicant will be notified.

(5) **Deferred, denied, and inactive applications** will be maintained on file in the Board office in accordance with the Records and Retention Schedule prepared by the Department of Archives and History.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

#### **CHAPTER 330-X-4 FEES**

330-X-4-.01	Method of Payment
330-X-4-.02	Application, Certification and Licensure Fees
330-X-4-.03	Examination Fees
330-X-4-.04	Fees Not Refundable
330-X-4-.05	Renewal Fee
330-X-4-.06	Roster
330-X-4-.07	Bad Checks

**330-X-4-.01 Method of Payment.** Fees shall be payable to the Professional Engineers and Land Surveyors Fund. Payment of fees should be made by checks (personal, company or cashier's) or money orders. No cash, credit cards or money transfers will be accepted as payment of fees. Applications not accompanied by the proper fee will be returned to the applicant.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-36, Code of Alabama 1975)

#### **330-X-4-.02 Application, Certification and Licensure Fees.**

(1) The application, licensure, and renewal fees for professional engineers, professional land surveyors, engineer interns, and land surveyor interns shall be set by the Board, as provided by Section 34-11-5, Code of Alabama 1975.

(2) The application and renewal fees for certificates of authorization for a corporation, partnership, or firm shall be set by the Board, as provided by Section 34-11-5,

Code of Alabama 1975.

(3) The fee for an interim permit shall be set by the Board, as provided by Section 34-11-4(1)b, Code of Alabama 1975.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-5; Section 34-11-35, Code of Alabama 1975)

**330-X-4-.03 Examination Fees.** The examination fee for all examinations will be set by the Board.

Effective date: September 10, 1982. Last amendment effective: June 4, 2003.

(Auth: Section 34-11-6; Section 34-11-35, Code of Alabama 1975)

**330-X-4-.04 Fees Not Refundable.** No fee, or part of any fee, paid by any applicant for application, examination or licensure will be returned to the applicant, in the event of withdrawal of the application, denial of the application, or failure to take or pass the examination.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-5; Section 34-11-35, Code of Alabama 1975)

**330-X-4-.05 Renewal Fee.** The renewal and reinstatement fees shall be set by the Board. Renewal will be annually or biennially as established by the policies of the Board.

Effective date: September 10, 1982. Last amendment effective: June 4, 2003.

(Auth: Section 34-11-8; Section 34-11-35, Code of Alabama 1975)

**330-X-4-.06 Roster.** The fee for a copy of the roster shall be set by the Board. Persons licensed or certified by the Board, governmental agencies, libraries, or professional societies will be provided a copy upon request without charge.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-3; Section 34-11-35, Code of Alabama 1975)

**330-X-4-.07 Bad Checks.** If a check or negotiable instrument is dishonored, the writer of the check or instrument will be required to tender payment of the full amount of such check or instrument plus a service charge as established by the Code of Alabama, 1975, amended, Section 8-8-15.

(1) If the dishonored check or instrument was tendered for the purposes of sitting for an examination, payment of the full amount of such check or instrument plus a service charge must be paid in full prior to the individual being allowed to take the said examination. If the individual has already taken the examination prior to the board office receiving notification of the dishonored instrument, the individual's results will be held until such time as payment is made in full including the service charge.

(2) If the dishonored check or instrument was tendered for the purposes of renewing an individual license/certi-

cation or a corporate certification of authorization, the license or certification is invalidated and will not be considered in good standing, unless the issue is resolved within 30 days.

(3) If the dishonored check or instrument was tendered for the purposes of applying for licensure or certification, the application will not be processed until such time as payment is made in full including the service charge.

Effective Date: June 4, 2003.

(Auth: Section 8-8-15; Section 34-11-35, Code of Alabama 1975)

## **CHAPTER 330-X-5 CURRICULA APPROVED BY THE BOARD**

330-X-5-.01      Curricula Approved by the Board

### **330-X-5-.01      Curricula Approved by the Board.**

The following educational requirements are specified in accordance with the Licensure Law which provides that the Board may approve schools, colleges, or universities in determining educational qualifications.

(1) When considering applicants who are graduates of programs from a school, college, or university located within the United States and its jurisdictions the following will apply:

(a) The term "a graduate of an approved engineering curriculum" shall mean a graduate of an engineering program accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET) at the time of graduation or within a two year period of graduation. This term shall also mean a graduate of a master or doctoral degree program offered by a school or college of engineering offering at least one EAC/ABET baccalaureate engineering program provided the school or college of engineering has petitioned the Board for approval for this degree and the Board has granted this approval. This term shall also mean a graduate of a not substantially equivalent or other non-accredited engineering education curriculum who then earns a master or doctoral degree offered by a school or college of engineering offering an EAC/ABET baccalaureate engineering program in an equivalent discipline.

(b) The term "graduate of an unapproved engineering curriculum" shall mean a graduate of an engineering program which has not been accredited by EAC/ABET but has been accredited by a regionally accredited commission and is approved by the Board. This term shall also mean a graduate of a master or doctoral degree program offered by a school or college of engineering offering an EAC/ABET baccalaureate engineering program in the same discipline, provided the graduate has an approved four-year related science degree or an approved engineering technology degree.

(c) The term "graduate of an approved engineering technology curriculum" shall mean a graduate of a four year engineering technology program accredited by the Technology Accreditation Commission (TAC) of the Accreditation Board for Engineering and Technology (ABET) at the time of graduation or within a two year period of

graduation.

(d) In considering professional engineer applicants under Section 34-11-4(1)a3 and engineer intern applicants under Section 34-11-4-(2)b2 of the Licensure Law, the term "graduate of a related science curriculum" shall mean a graduate of a four year physics, mathematics, or other program which the Board may determine is related to engineering from a school or college which has been accredited by a regionally accredited commission.

(e) The term "graduate of an approved land surveying curriculum" shall mean a graduate of a land surveying curriculum of four years or more including a minimum of 30 semester hours or 45 quarter hours of surveying courses from a school or college which has been accredited by a regionally accredited commission and is approved by the Board.

(f) The term "graduate of an approved curriculum related to surveying" shall mean a graduate of a curriculum related to surveying of four years or more including a minimum of 15 semester hours or 22.5 quarter hours of surveying courses from a school or college which has been accredited by a regionally accredited commission and is approved by the Board.

(g) In considering professional land surveyor applicants under Section 34-11-4(3)a3 and land surveyor intern applicants under Section 34-11-4-(4)b2 of the Licensure Law, the term "graduate of a related science curriculum" shall mean a graduate of a four year mathematics or other program which the Board may determine is related to land surveying from a school or college which has been accredited by a regionally accredited commission.

(2) When considering engineering applicants who are graduates of engineering programs from a school, college or university outside of the United States and its jurisdictions, the Board will evaluate and approve the degrees on an individual basis. The Board may require an independent evaluation of the engineering education of an applicant who was educated outside of the United States and its jurisdictions. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant.

Effective date: September 10, 1982. Last amendment effective: June 4, 2003.

(Auth: Section 34-11-4; Section 34-11-35, Code of Alabama 1975)

## **CHAPTER 330-X-6 EXPERIENCE**

330-X-6-.01      Qualifying Experience  
330-X-6-.02      Nonqualifying Experience

**330-X-6-.01      Qualifying Experience.** In evaluating experience offered as qualifying experience under Section 34-11-4 (1), (2) and (3), Code of Alabama 1975, the Board will take into consideration the following:

(a) Experience must be progressive and of an increasing standard of quality and responsibility and usually follows graduation.

(b) Professional land surveyor applicants without a degree must present evidence that they have become self-educated in land surveying. Experience for all land surveyor applicants usually is gained under the supervision of a licensed professional land surveyor. Verification of experience usually will be by the licensed professional land surveyor supervisor or a licensed professional land surveyor associate. It is the responsibility of the applicant to have the verification forms provided in the application package completed and returned directly to the Board by the endorser. See Rule 330-X-3-.01(4).

(c) Professional Engineer applicants will usually gain experience by working under the supervision of a licensed professional engineer. Experience may also be gained by working with a licensed professional engineer who closely observed the applicant's work as an associate within the same company and the same location. Verification of experience must be by the licensed professional engineer supervisor, the licensed professional engineer associate, or in some other relationship that assures the Board that the experience received is substantially equivalent to supervision under a licensed professional engineer. It is the responsibility of the applicant to have the verification forms provided in the application package completed and returned directly to the Board by the endorser. See Rule 330-X-3-.01(4).

(d) Concurrent time, that is time spent in engineering or land surveying work while attending school, can only be credited as education experience or work experience but not as both.

(e) Experience claimed on the engineer intern or professional engineer application as engineering experience cannot be claimed as land surveying experience on the land surveyor intern or professional land surveyor application. Experience claimed on the land surveyor intern or professional land surveyor application as land surveying experience cannot be claimed as engineering experience on the engineer intern or professional engineer application.

(f) Military experience, to be creditable, must have been spent in engineering work or land surveying work and be of a character equivalent to that required in the civilian sector in like work.

(g) For sales experience to be creditable, it must be demonstrated conclusively that engineering principles and engineering knowledge were actually employed. The mere selection of data or equipment from a company catalog or a similar publication will not be considered engineering experience.

(h) Successful completion of graduate study in an engineering curriculum leading to a master's degree in engineering in a program whose undergraduate or graduate degree is accredited by EAC/ABET may be credited as one year of engineering experience. Successful completion of a Ph.D. in engineering after completion of a master's degree may be credited for an additional year of experience. Successful completion of graduate study in a land surveying curriculum leading to a master's degree in land surveying in a program whose undergradu-

ate or graduate degree is accredited by the Related Accreditation Commission of ABET may be credited as one year of surveying experience. Successful completion of a Ph.D. in land surveying after completion of a master's degree may be credited for an additional year of experience. If the Ph.D. in engineering or land surveying is obtained without the master's degree, the credit for experience will be two years. If the awarding of the master's or higher degree has been used to change the category of curricula for which the applicant is accepted as identified in Section 330-X-5.01, it cannot be used for experience credit.

(i) For teaching experience to be creditable, the engineer applicant must have taught in a four year engineering or engineering technology curriculum accredited by ABET and must have been under the supervision of a licensed professional engineer. For teaching experience to be creditable as land surveying experience, the land surveyor applicant must have taught in a land surveying or land surveying technology curriculum approved by the Board and must have been under the supervision of a licensed professional land surveyor.

(j) Engineering experience leading to licensure as a licensed professional engineer should be directed toward the identification and solution of practical problems in the applicant's area of engineering specialization. This experience should include engineering analysis of existing systems or structures or the design of new systems or structures and under the supervision of a licensed professional engineer.

(k) Experience in construction supervision in order to be qualifying must include use of engineering skills in assuring compliance with specifications and design.

(l) Experience must not be anticipated. The experience must have been received before the time the application is submitted.

(m) Land surveying experience must be progressive and must include experience in property conveyance/boundary line determination, field work, office work, and legal/courthouse research.

(n) Experience prior to graduation is evaluated by the Board on a case by case basis. Normally the maximum time allowed is six months.

Effective date: September 10, 1982. Last amendment effective: June 4, 2003.

(Auth: Section 34-11-4; Section 34-11-35, Code of Alabama 1975)

### **330-X-6.02 Nonqualifying experience.**

(1) Experience must not have been obtained in violation of the Licensure Law.

(2) The Board will not accept the mere execution as a contractor of work designed by a licensed professional engineer, or the supervision of the construction of such work as a foreman or superintendent as qualifying engineering experience.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-4; Section 34-11-14; Section 34-11-35, Code of Alabama 1975)

## **CHAPTER 330-X-7 REFERENCES**

330-X-7-.01	Statement of Policy
330-X-7-.02	References
330-X-7-.03	Confidentiality of Reference Replies

### **330-X-7-.01 Statement of Policy.**

(1) The applicant should give serious attention to the selection of references.

(2) The licensed professional engineers or licensed professional land surveyors under whose direct control and personal supervision the applicant has worked should normally be named as references.

(3) Any Board Member may request a Board Member, a staff employee or others, to make an independent and report the findings.

(4) Additional references may be required by the Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

### **330-X-7-.02 References.**

(1) The applicant shall furnish on the application for licensure five reference names, their addresses and if licensed, the jurisdictions in which they are licensed.

(2) If applying for engineer licensure, a minimum of three of the five references must be currently licensed professional engineers; however, it is desirable that all the references be licensed professional engineers who are qualified to evaluate the applicant's engineering training and experience.

(3) If applying for land surveyor licensure, a minimum of three of the five references must be currently licensed professional land surveyors, who are qualified to evaluate the applicant's land surveying training and experience.

(4) All references should know the applicant personally and should be able to issue judgements concerning the applicant's experience, ability, character and reputation.

(5) Accurate statements of fact from responsible references covering the applicant's experience are necessary.

(6) Immediate relatives may not be used as references.

(7) A current member of the Board cannot serve as a reference for an applicant.

(8) The Board may find it necessary to correspond directly with a reference to seek clarification or amplifica-

tion of the reference's responses on the form submitted. If the reference fails or declines to furnish the necessary information within a reasonable time, all information submitted by that reference may be disregarded in consideration of the application involved.

(9) It is the responsibility of the applicant to have the reference forms completed that are provided in the application package. The endorsers must return these forms directly to the Board office. See Rule 330-X-3-.01(4).

Effective date: September 10, 1982. Last amendment effective: June 4, 2003.

(Auth: Section 34-11-5; Section 34-11-35, Code of Alabama 1975)

### **330-X-7-.03 Confidentiality of Reference Replies.**

Those replies received from references regarding the qualifications of an applicant shall be included as records which do not constitute public records as provided for in Rule 330-X-1-.11, and such replies will be held confidential.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

## **CHAPTER 330-X-8 EXAMINATIONS**

330-X-8-.01	Classifications of Examinations
330-X-8-.02	Eligibility for Examination
330-X-8-.03	Examination Dates and Locations
330-X-8-.04	Examinations in the English Language
330-X-8-.05	Study Information
330-X-8-.06	Instructions for Examination
330-X-8-.07	Examination Offerings
330-X-8-.08	Examination Results
330-X-8-.09	Review of Failed Examination
330-X-8-.10	Examination for Record Purposes
330-X-8-.11	Examination of Candidates with Disabilities.
330-X-8-.12	Materials Permitted in Examination Room.

**330-X-8-.01 Classifications of Examinations.** Written examinations as required by the Alabama Law will be classified as follows:

(a) Examination in the Fundamentals of Engineering Subjects - FE Exam - Exam I, one day, eight-hour National Council of Examiners for Engineering and Surveying (NCEES) Exam

(b) Examination in the Principles and Practice of Engineering - PE Exam - Exam II, one day, eight-hour NCEES Exam

(c) Examination in the Fundamentals of Land Surveying - FLS Exam - Exam I, one day, eight-hour NCEES Exam

(d) Examination in the Principles and Practice of Land Surveying - PLS Exam - Exam II, one day, six-hour NCEES Exam

(e) Alabama Land Surveying Standards, History, and

Law - ALSS - Exam III, two-hour Alabama Exam  
Effective date: September 10, 1982. Last amendment effective: June 4, 2003.

(Auth: Section 34-11-6; Section 34-11-35, Code of Alabama 1975)

### **330-X-8-.02 Eligibility for Examination.**

(1) Engineer applicants will not be scheduled to take Exam II (PE) until Exam I has been passed. Land Surveyor applicants will not be scheduled to take Exam II (PLS) and Exam III (ALSS) until Exam I (FLS) has been passed.

(2) No candidate may take the eight-hour engineer examination in the Principles and Practice of Engineering nor the six-hour Principles and Practice of Land Surveying Examination until the Board has established his or her eligibility for examination.

(3) Candidates for the eight-hour examinations in the Fundamentals of Engineering and the Fundamentals of Land Surveying may sit for the next scheduled examination without Board action provided the proper application has been filed and the correct fee paid.

(4) A new examination candidate, if approved to take the examination, is approved for four examination attempts.

Effective date: September 10, 1982. Last amendment effective: June 4, 2003.

(Auth: Section 34-11-35, Code of Alabama 1975)

### **330-X-8-.03 Examination Dates and Locations.**

(1) Written examinations for the FE, PE, FLS, and PLS are offered on dates set by NCEES. The written examination for the ALSS is offered on dates set by the Board.

(2) Locations at which the examinations are given are designated by the Board and this information will be available at least two weeks before the examinations.

(3) The seating capacity in certain exam locations is limited. If an exam location capacity is reached, the applicant may be reassigned to another exam location.

(4) The Board reserves the right to schedule examinees to another location if there are insufficient applicants or other problems for an exam location.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-6; Section 34-11-35, Code of Alabama 1975)

### **330-X-8-.04 Examinations in the English Language.**

All examinations will be in the English language.

Effective date: September 10, 1982

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-8-.05 Study Information.** Questions used on prior examinations will not be distributed by the Board. Order forms are available, upon request, for ordering typical questions from NCEES. Information on the

history of land surveying in Alabama and Alabama Law applicable to land surveying is available as specified by the Executive Director of the Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-8-.06 Instructions for Examination.** Instructions provided prior to each examination will furnish information regarding whether the examination is open, closed, or limited reference book. On an open book examination, textbooks and bound classroom manuals are permitted. On a limited reference examination, the only reference material allowed will be furnished. More specific instructions will be provided prior to the examination or at the examination site.

Effective date: September 10, 1982. Last amendment effective: January 19, 2005.

(Auth: Section 34-11-6; Section 34-11-35, Code of Alabama 1975)

### **330-X-8-.07 Examination Offerings.**

(1) An applicant successfully qualifying for an examination will be notified at least three weeks in advance of the examination for which the exam fee has been paid.

(a) Should the applicant fail to take the examination offered or fail to pass the examination and plans to retake the examination, the applicant must file a request for reexamination and pay the examination fee as set by the Board. Should the applicant fail to take the examination or fail to pass the examination applied for, the fee paid is not refundable.

(b) In the event an applicant fails to pass the examination after the approved number of attempts, the applicant will be notified that the application has been closed.

(c) If an application is closed, in order to be considered for further examinations, an applicant must file a new application, listing experience gained since the previously filed application, and pay the application fee as required by Law. No transcripts, additional references or verifications will be required. The applicant must meet the eligibility requirements of the current Law and Administrative Code.

(d) In the event the requalified applicant again fails to pass the examination after four (4) additional attempts, the application will be closed and the procedure as outlined in (c) above would then be repeated before further consideration would be afforded the applicant.

(e) An application will be considered valid and retained on file for a period of five years. After the failure of the number of approved attempts or five years, whichever occurs first, an application will be closed and the applicant will be required to follow the procedure outlined in (c) above for reapplication.

Effective date: September 10, 1982. Last amendment effective: January 19, 2005.

(Auth: Section 34-11-5; Section 34-11-6; Section 34-11-35, Code of Alabama 1975)

**330-X-8-.08 Examination Results.** Examination results will be approved by the Board. The passing score on each NCEES examination will be determined by the Board, based on NCEES's recommendation. Passing numerical scores will not be reported; however, applicants will be given their numerical failing score.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-8-.09 Failed Examination.** There will be no review of failed exams.

Effective date: September 10, 1982. Last amendment effective: June 4, 2003.

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-8-.10 Examination for Record Purposes.**

(1) Any engineer licensed by this Board may take for record purposes the Fundamentals of Engineering Examination and the Principles and Practice of Engineering Examination prepared by NCEES upon payment of a fee as established by the Board.

(2) Any land surveyor licensed by this Board may take for record purposes the Fundamentals of Land Surveying and the Principles and Practice of Land Surveying Examination prepared by NCEES upon payment of a fee as established by the Board.

(3) Failure to pass either or both parts of the examination will in no way affect current licensure.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-8-.11 Examination of Candidates with Disabilities.** Accommodations made for disabled persons shall comply with applicable federal and state laws and regulations. Application procedures will be as specified by NCEES.

Effective Date: June 4, 2003. Last amendment effective: January 19, 2005

(Auth: Section 34-11-6; Section 34-11-35, Code of Alabama 1975)

**330-X-8-.12 Materials Permitted in Examination Room.**

(1) Devices or materials that might compromise the security of the examination or examination process are not permitted.

(2) Only models of calculators as specified by NCEES are permitted in the examination room.

(3) Devices having a QWERTY keypad arrangement similar to as typewriter or keyboard are not permitted. Devices not permitted include but are not limited to palmtop, laptop, handheld, and desktop computers, calculators, databanks, data collectors, and organizers.

(4) Communication devices such as pagers and cellular phones are not permitted.

(5) Each candidate will be required to sign a statement

that he or she will neither copy nor divulge any examination problem or solution and that any violation thereof will be sufficient grounds for invalidating the candidate's examination.

Effective date: January 19, 2005.

(Auth: Section 34-11-6; Section 34-11-35, Code of Alabama 1975)

## **CHAPTER 330-X-9 CLASSIFICATIONS AND BRANCHES OF ENGINEERING AND LAND SURVEYING**

330-X-9-.01	Classification of Licensure
330-X-9-.02	Branches of Engineering and Land Surveying
330-X-9-.03	Functions Common to both Engineering Surveying and Land Surveying

**330-X-9-.01 Classification of Licensure.**

(1) Applicants shall be licensed under one or more of the following titles:

- (a) Professional Engineer or
- (b) Professional Land Surveyor.

(2) Applicants shall be certified under one or more of the following titles:

- (a) Engineer Intern or
- (b) Land Surveyor Intern.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-1; Section 34-11-35, Code of Alabama 1975)

**330-X-9-.02 Branches of Engineering and Land Surveying.**

(1) Chapter 11, Title 34, Code of Alabama 1975 makes no specific designations as to the branches of engineering or land surveying practice for which a license as Professional Engineer or Professional Land Surveyor shall be issued; however, the Rules of Professional Conduct, Rule 330-X-14-.03, provides that a professional engineer or professional land surveyor shall practice only in fields in which he or she is qualified by education or experience. Discipline of examinations taken by a licensee is considered a public record and will be provided by request.

(2) If all design plans for a building or structure, which may include electrical, mechanical, structural and incidental architectural drawings, are all signed and sealed by the same engineer, a form provided by the Board showing qualifications to perform these disciplines must be completed and submitted to the Board by the engineer within one week of the submittal of the plans.

(3) All disciplinary cases involving geology/engineering professional overlaps will be referred to the board issuing the license for hearing and disposition. The complaining

board may have a board member or designated representative at the hearing for liaison and evidence as necessary.

Effective date: September 10, 1982. Last amendment effective: June 4, 2003.

(Auth: Section 34-11-35, Code of Alabama 1975.)

**330-X-9-.03 Functions Common to both Engineering Surveying and Land Surveying.** Section 34-11-1, Code of Alabama 1975 provides for definitions of engineering surveys, contained in the definition of practice of engineering, and practice of land surveying. The terms "engineering surveys" and "land surveying" include functions common to both professions and may be performed by professional engineers or professional land surveyors. Likewise, there are functions that must be performed only by a professional engineer and functions that must be performed only by a professional land surveyor.

(a) The professional land surveyor, alone, has the authority to perform dependent or independent surveys or resurveys of the public land system. Functions unique to land surveying that must be performed by or under the direct supervision of a licensed professional land surveyor are:

- (1) Property and boundary surveys
- (2) Sub-division surveys and plats
- (3) Public land surveys
- (4) Mine surveys referenced to land boundaries
- (5) "As Built" surveys referenced to land boundaries
- (6) Geodetic surveys referenced to the public land survey system
- (7) Other surveys that require the establishment of a relationship to property boundaries.
- (8) Base maps for geographical information system (GIS) applications.

(b) Functions unique to engineering that must be only performed by or under the direct supervision of a licensed professional engineer are:

- (1) Design of roadways and streets
- (2) Design of storm drainage systems
- (3) Design of water and sewer systems
- (4) Design of gas and power systems
- (5) Design of other types of land development dealing with structures and utilities
- (6) Design of site grading plans
- (c) Functions common to land surveying and engineering surveying that can be performed by or under the direct supervision of a professional land surveyor or a professional engineer, as long as the survey does not require the establishment of a relationship to property

boundaries, are:

- (1) Topographic surveys
- (2) Horizontal and vertical control surveys
- (3) Lay-out surveys for construction
- (4) Profiles and cross sections
- (5) Quantity and measurement surveys
- (6) Cartographic surveys
- (7) Hydrographic surveys
- (8) Geodetic surveys not referenced to the public land survey system
- (9) Mine surveys
- (10) "As Built" Surveys not referenced to land boundaries
- (11) Right-of-way, easement, or alignment referenced to the centerline of the project as long as the surveys are not tied to the public land system.
- (12) Other types of surveys that do not require establishment of a relationship to property boundaries.
- (13) The use of photogrammetry, and other similar remote sensing, to determine elevations (contours) and the horizontal positions of features.

(14) The direct measurement of elevations and/or the horizontal/vertical positions of features for the use in land information and/or geographic information systems. Direct measurement is defined as primary spatial data capture using technologies such as the total station, global positioning system (GPS), photogrammetry, or LIDAR.

Effective Date: October 28, 1998. Last amendment effective: January 19, 2005.

(Auth: Section 34-11-35, Code of Alabama 1975)

## **CHAPTER 330-X-10 LICENSURE AND CERTIFICATION**

- 330-X-10-.01 License Number
- 330-X-10-.02 Certificates of Licensure
- 330-X-10-.03 Reissuance of Certificates

**330-X-10-.01 License Number.** At the time an applicant is granted licensure by the Board, the applicant will be assigned a license number.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-7; Section 34-11-35, Code of Alabama 1975)

### **330-X-10-.02 Certificates of Licensure.**

(1) After the Board has received payment of the licensure fee from an approved applicant, a Certificate of

Licensure with the license number will be issued.

(2) A professional engineer or professional land surveyor examination applicant who fails to complete his or her licensure as provided for herein above within a period of thirty days after notice is mailed to him or her by the Board that he or she has been granted licensure shall be denied licensure. This deadline may be waived due to extenuating circumstances.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-5; Section 34-11-7; Section 34-11-35, Code of Alabama 1975)

**330-X-10.03 Reissuance of Certificates.** A licensee requesting a new Certificate of Licensure under the provisions of Section 34-11-12, Code of Alabama 1975 shall file a notarized request form setting out the reasons for the request. When the reissue is to replace an original certificate, the original certificate, if possible, shall be surrendered to the Board. Upon receipt of the request form accompanied by the required fee, a duplicate certificate will be issued.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-11; Section 34-11-12; Section 34-11-35, Code of Alabama 1975)

## **CHAPTER 330-X-11 SEALS**

- 330-X-11-.01 Seal of the Board
- 330-X-11-.02 Seal of the Licensee
- 330-X-11-.03 Seal on Documents
- 330-X-11-.04 Seal, Signature, and Date on Certification

**330-X-11-.01 Seal of the Board.** The seal of the Board shall be circular in form and shall be imprinted on all certificates issued by the Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

### **330-X-11-.02 Seal of the Licensee.**

(1) Upon approval of licensure by the Board, licensees will be advised that they should secure an official seal which shall be applied to all drawings, specifications, reports, and other engineering or land surveying documents prepared by or under the direct control and personal supervision of the licensees.

(2) The seals to be used by the licensees are to be circular in form and not less than 1 5/8 inches nor greater than 2 inches in diameter with copy of the design to be furnished each new licensee.

(3) Seals obtained prior to the adoption of this rule and which are in conformance with prior Board rules are acceptable.

(4) Rubber stamps and computer generated seals identical in size, design, and content with the approved seals may be used by the licensee.

(5) Drawings, reports, or documents that are signed using a digital signature, as defined in 330-X-02(11), shall contain the following:

- a. Authentication procedure
- b. A list of the hardware, software, and parameters used to prepare the document.

Effective date: September 10, 1982. Last amendment effective: June 4, 2003.

(Auth: Section 34-11-9; Section 34-11-35, Code of Alabama 1975)

### **330-X-11-.03 Seal on Documents.**

(1) The seal, signature, and date of signature on a document signify that the document was prepared by the licensee or under his or her direct control and personal supervision, or that the licensee has reviewed the document in sufficient depth to fully coordinate and assume responsibility for documents prepared by another licensed professional engineer or licensed professional land surveyor.

(2) Each sheet of plans, drawings, documents, specifications, and reports for engineering practice and of maps, plats, charts, and reports for land surveying practice, shall be signed, sealed, and dated by the licensee or interim permit holder who prepared the documents or under whose direct control and personal supervision the documents were prepared.

(3) Where more than one sheet is bound together in one volume, the licensee or interim permit holder who prepared the volume, or under whose direct control and personal supervision the volume was prepared, may sign, seal, and date only the title or index sheet, provided that this sheet clearly identifies all of the other sheets comprising the bound volume, and provided that any of the other sheets which were prepared by, or under the direction and control of, another licensee or interim permit holder, be signed, sealed, and dated by the other licensee or interim permit holder.

(4) Additions, deletions, or other revisions affecting public health and safety or State and local codes shall not be made unless signed, sealed, and dated by the licensee or interim permit holder who made the revisions or under whose direct control and personal supervision said revisions were made.

(5) The seal, signature, and date shall be placed on all final specifications, land surveys, reports, plats, drawings, plans, design information, and calculations whenever presented to a client or any public or governmental agency. All work products presented which are not final shall be so identified. Working drawings or documents are unfinished, in-progress drawings or documents that may or may not have a seal and signature. A working drawing or document must, however, contain a statement to the effect "PRELIMINARY, NOT FOR CONSTRUCTION, RECORDING PURPOSES OR IMPLEMENTATION."

(6) Working drawings consisting of sketches, reports,

or otherwise a work product which is in whole or part intended to communicate work to be performed or for use in specific proposals and/or becomes a part of defining the scope of a contract for work, must be sealed, signed, and dated by the licensee who prepared these documents or under whose direct control and personal supervision they were prepared.

(7) A computer generated seal or facsimile is acceptable only when the signature of the professional engineer or professional land surveyor and the date the document was signed are on or adjacent to the computer generated or facsimile seal. Any variation from this procedure must be submitted to and approved by the Board.

Effective date: September 10, 1982. Last amendment effective: January 19, 2005.

(Auth: Section 34-11-9; Section 34-11-35, Code of Alabama 1975)

### **330-X-11-.04 Seal, Signature, and Date on Certifications.**

(1) The term "Certification" as used herein shall be as set forth in Rule 330-X-2-.01(8).

(2) When an engineer or a land surveyor is presented with a Certification to be signed, sealed, and dated, he or she should carefully evaluate that Certification to determine if any of the circumstances set forth in subsection (3) below would apply.

(3) Engineers or land surveyors who sign, seal, and date Certifications which: (a) relate to matters which are beyond the engineer's or land surveyor's technical competence, or (b) involve matters which are beyond the engineer's or land surveyor's scope of services actually provided, or (c) relate to matters which were not prepared under the engineer's or land surveyor's responsible supervision, direction, or control are subject to discipline pursuant to Rules 330-X-14-.05(h) and 330-X-16.

(4) If any of these circumstances set forth in subsection (3) above would apply, that engineer or land surveyor shall either: (a) modify such Certification to limit its scope to those matters which the engineer or land surveyor can properly sign, seal, and date, or (b) decline to sign, seal, and date such Certification.

Effective date: October 18, 1994. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-9; Section 34-11-35, Code of Alabama 1975)

## **CHAPTER 330-X-12 INTERIM PERMITS**

330-X-12-.01 Requirements  
330-X-12-.02 Issuance  
330-X-12-.03 Land Surveyors not Eligible

### **330-X-12-.01 Requirements.**

(1) This Board may grant an interim permit to practice as a professional engineer to a person who applies for the permit and who is legally qualified to practice in another jurisdiction, and who has never had a license revoked or

invalidated. A lapsed license is not considered invalidated. The application procedure for an interim permit is identical to that prescribed for licensure as a professional engineer in this State. In addition, a person desiring an interim permit will file a "Request for Interim Permit in Alabama" form as prescribed by the Board and submit the appropriate fee. This request will state the reason for requesting such permit and the specific work to which it applies.

(2) If the Executive Director of the Board finds the application and request to be in order and the applicant clearly meets all requirements for licensure in Alabama, the request for interim permit will be processed.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-4; Section 34-11-35, Code of Alabama 1975)

### **330-X-12-.02 Issuance.**

(1) An interim permit will be effective until the next regular meeting of the Board after the interim permit has been granted at which time the applicant will be considered for licensure. If, in the opinion of the Board, the qualifications of the applicant are insufficient, the interim permit will be immediately terminated and the applicant will be notified.

(2) While practicing under an interim permit in this State, the holder thereof will affix to all plans and documents for use and execution in this State, the seal or stamp required in the jurisdiction in which he or she is currently licensed with the added notation: "Practicing in the State of Alabama under Interim Permit No. ."

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-12-.03 Land Surveyors not eligible.** This Board is not empowered to grant a permit for the interim practice of land surveying in Alabama. No person may legally practice land surveying in this State without first being fully licensed as a land surveyor by this Board.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

## **CHAPTER 330-X-13 EXPIRATIONS, LAPSES, RENEWALS, AND CONTINUING PROFESSIONAL COMPETENCY**

330-X-13-.01 Renewals  
330-X-13-.02 Continuing Professional Competency  
330-X-13-.03 Lapses

### **330-X-13-.01 Renewals.**

(1) All licenses lapse on December 31 of a specified year. Each licensee will be mailed a form for renewal of licensure no later than two months prior to the date the

license lapses. The renewal form must be signed and returned to the Board office with the renewal fee. The license renewal notice will contain references to the five Canons of the Rules of Professional Conduct (Code of Ethics), Rule 330-X-14. The licensee's signature on the renewal form reaffirms agreement to abide by the Rules of Professional Conduct.

(2) An application for certification renewal will be mailed to certified engineer interns and land surveyor interns annually, no later than the end of October. All certifications lapse on December 31.

(3) The renewal fees are set each year by the Board. No renewal fees will be accepted prior to the mailing of the renewal forms.

(4) Reinstatement fees for lapsed licenses and certifications are set each year by the Board.

Effective date: September 10, 1982. Last amendment effective: January 19, 2005.

(Auth: Section 34-11-8; Section 34-11-35, Code of Alabama 1975)

### **330-X-13.02 Continuing Professional Competency**

(1) Purpose — In order to help safeguard life, health, and property, and to promote the public welfare, the practices of professional engineering and land surveying in Alabama require continuing professional competency in accordance with Code of Alabama 1975 Section 34-11-8 (a)(2) and this Rule.

(2) Scope — Each in-state and out-of-state licensee shall be required to meet the continuing professional competency requirements of these regulations for professional development as a condition for licensure renewal. Continuing professional competency obtained by a licensee should maintain, improve, or expand skills and knowledge obtained prior to initial licensure or develop new and relevant skills and knowledge.

(3) Definitions — Terms used in this section are defined as follows:

(a) Professional Development Hour (PDH)—A contact (clock) hour consisting of not less than 50 minutes of instruction or presentation and which further meets the requirements of these rules.

(b) Sponsor—An individual, organization, association, institution, or other entity which provides an educational activity for the purpose of fulfilling the continuing professional competency requirements of this rule.

(4) Requirements — To demonstrate that a licensed professional engineer or professional land surveyor maintains an acceptable level of competency, a licensee must obtain the number of Professional Development Hours (PDH) per renewal period as shown below. The requirement must be satisfied during the current renewal period except (1) for the carryover permitted, (2) PDH earned during the previous renewal period after the date of submitting the previous renewal to the Board office and (3) PDH earned in the following renewal period. Professional development hours must not be anticipated and cannot

be used for more than one renewal period.

(a) A licensed professional engineer or licensed professional land surveyor must earn a minimum of fifteen PDH per annual renewal period or thirty if biennial renewal period except for the carryover permitted. The number of professional development hours which may be carried forward into the next renewal period shall not exceed fifteen whether on an annual or biennial period.

(b) A licensee who has both a professional engineer's license and a professional land surveyor's license can cross claim PDH's when course material is applicable to both licenses.

(c) All professional land surveyors are required to earn a minimum of six PDH credits on Standards for Practice for Surveying in the State of Alabama every four years. All new professional land surveyor licensees must complete this requirement within 24 months of becoming a licensed surveyor. Credit will be given for courses taken within 24 months of obtaining licensure. Credit for these courses/seminars will count toward the annual or biennial PDH requirements.

(5) Activities — Continuing professional competency activities which satisfy the professional development requirement shall include, but not be limited to:

(a) Successfully completing or auditing college or university sponsored courses,

(b) Successfully completing courses which are awarded continuing educational units (CEU),

(c) Successfully completing tutorials, short courses, correspondence courses, televised courses, or video-taped courses,

(d) Attending seminars, in-house programs, workshops, or professional or technical presentations made at meetings, conventions, or conferences.

(e) Teaching, presenting, or instructing as described in (a) through (d) above,

(f) Authoring published papers, articles, books, or accepted licensing examination items, and

(g) Receiving a United States patent.

All of such activities as described in (a) through (g) above must be relevant to the practice of engineering or land surveying and may include technical, ethical, or managerial content. The Board does not preapprove or endorse any CPC activities. It is the responsibility of each licensee to assure that all PDH credits claimed meet the requirements as specified in 330-X-13.02.

(6) Criteria — Continuing professional competency activities must meet the following criteria:

(a) There is a clear purpose and objective for each activity which will maintain, improve, or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge.

(b) The content of each presentation is well organized and presented in a sequential manner.

(c) There is evidence of preplanning which should include the opportunity for input by the target group to be served.

(d) The presentation will be made by persons who are well qualified by education or experience.

(e) There is a provision for individual participant registration which will include information required for record keeping and reporting.

(7) Units — The conversion to PDH units from other units is as follows:

1 University semester hour of credit...	45 PDH
1 University quarter hour of credit...	30 PDH
1 Continuing Educational Unit (CEU).	10 PDH
1 Hour of acceptable professional development education ...	1 PDH

(8) Credits — Credit for qualifying courses successfully completed which offer PDHs based on semester hours, quarter hours, or CEUs is as specified above. All other activities permit the earning of one PDH credit for each contact hour with the following exceptions:

(a) Successful auditing of university or college courses permits PDH credit of 1/3 that shown in (7) above.

(b) Teaching or instructing qualifying courses or seminars or making presentations at technical meetings can earn PDH credit at twice that of participants.

(c) Authorship of papers, articles, or books cannot be claimed until actually published. Receipt of a US patent cannot be claimed until the patent is actually awarded. Credit earned will equal preparation time spent not to exceed 10 PDH per publication or patent.

(d) The Board does not encourage meeting continuing professional competency requirements through correspondence, video, audio, or on-line courses. Course PDH may be acceptable, if the licensee can demonstrate high quality education from the course, if requested. A correspondence, video, audio, or on-line course must require the participant to show evidence of achievement and completion and/or a final graded test.

(e) The Board will not accept self study, regular employment including repetitive teaching of the same course without updating course material, service club meetings, equipment demonstrations, membership on Boards or Committees, enrollment without attending the course, conversational language courses for personal use, and other activities not relevant to engineering or land surveying and not educational in nature.

(9) Exemptions — A licensee may be exempt from the professional development educational requirements for one of the following reasons:

(a) A noncareer military licensee serving on active duty in the armed forces of the United States for a period

of time exceeding one hundred twenty (120) consecutive days in a calendar year shall be exempt from obtaining the professional development hours required during that year.

(b) A licensee employed as a professional engineer or professional land surveyor and assigned to duty outside the United States for a period of time exceeding one hundred twenty (120) consecutive days in a calendar year shall be exempt from obtaining the professional development hours required during that year.

(c) A licensee who has experienced during the past year a serious illness or injury of a nature and duration which has prohibited completing continuing professional competency requirements this past renewal period may be exempted in order to give the licensee sufficient time to recuperate and begin to earn the necessary professional development hours for the next renewal period. Supporting documentation such as a letter from a physician must be furnished to the Board. This exemption, not to exceed one renewal period, is granted as specified by the Board.

(d) Licensees who list their occupation as Retired or Inactive on the Board approved renewal form and who certify that they are not currently practicing engineering or land surveying shall be exempt from the professional development hours required. In the event such a person elects to return to active practice of professional engineering or professional land surveying, to include reinstating a lapsed license, professional development hours must be earned for each year exempted not to exceed the annual requirement for two years before the person returns to active practice. The hours required for reinstatement are to bring the license to active status. When the reinstated license renewal is due, the licensee will also be required to obtain the professional development hours for the renewal period.

(10) New Licensees. A new licensee by way of examination is awarded 15 PDHs towards their first renewal.

(11) Forms — All renewal applications will require the listing of the PDH credit claimed unless the licensee is exempt from the continuing education requirement. The licensee must supply sufficient detail to permit audit verification, must certify and sign the renewal application.

(12) Records — The responsibility of maintaining records which can be used to support credits claimed is the responsibility of the licensee. Records required include but are not limited to (1) a log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned; (2) attendance verification records in the form of completion certificates, signed attendance receipts, paid receipts, a copy of a listing of attendees signed by the sponsoring organization, or other documents supporting evidence of attendance. These records must be maintained for a period of four years and copies must be furnished, if requested, to the Board for audit verification purposes. These records should not be furnished with the renewal application.

(13) Disallowance — If the Board disallows claimed PDH credit after the renewal has been processed, the licensee shall have 180 days after notification to substantiate the original claim or to earn other credit to meet the minimum requirement.

(14) Audit - the Board will conduct a random audit of renewals submitted for compliance with the continuing education requirements.

(a) Those licensees selected for audit will be notified and will be required to provide the documents as outlined in subsection (12) above.

(b) Failure to respond within 60 days of audit notification will result in a temporary suspension of the license and the license will remain suspended until such time as the audit requirements are met.

(c) Falsification of documentation is grounds for disciplinary action.

Effective Date: August 17, 1992. Last amendment effective: January 19, 2005.

(Auth: Section 34-11-8; Section 34-11-35, Code of Alabama 1975)

### **330-X-13-.03 Expirations and Lapses.**

(1) The right to practice as a licensed professional engineer or licensed professional land surveyor lapses December 31 of the specified year unless renewed. To be reinstated, a licensee who does not renew before December 31 and has a lapsed license for a period not to exceed four years, will be required to file a reinstatement form, show evidence of completion of the continuing professional competency requirement, and pay the reinstatement fee as determined by the Board. Any license which has been lapsed for more than four years is not eligible for reinstatement and is considered expired and the individual will be required to file a new application and meet the statutory requirements in existence at time of relicensing.

(2) An engineer intern or land surveyor intern who does not renew his or her certification within the period provided by Law will not invalidate his or her status as an engineer intern or land surveyor intern, but his or her name shall, after ninety days, be removed from the Board's current mailing list and omitted from the Roster. The fee to bring an enrollment current after a renewal expiration shall be twice the fee established for the renewal period.

Effective Date: September 10, 1982. Last amendment effective: January 19, 2005.

(Auth: Section 34-11-8; Section 34-11-35, Code of Alabama 1975)

## **CHAPTER 330-X-14 PROFESSIONAL CONDUCT (CODE OF ETHICS)**

330-X-14-.01	Preamble
330-X-14-.02	Conflict of Interest (Canon I)
330-X-14-.03	Qualified by Education and Experience (Canon II)
330-X-14-.04	Confidences of Clients and

330-X-14-.05	Employers (Canon III)
330-X-14-.06	Practice (Canon IV)
330-X-14-.07	Ethics (Canon V)
330-X-14-.08	Responsibility for Conduct
	Convictions

### **330-X-14-.01 Preamble.**

(1) In order to meet the intent of the Code of Alabama 1975, Title 34, Chapter 11, to safeguard the life, health, property, and welfare of the public and to establish and maintain a high standard of integrity, skills, and practice in the professions of engineering and land surveying, the following Rules of Professional Conduct (Code of Ethics) are promulgated in accordance with Section 34-11-35, Code of Alabama 1975 and shall be binding upon (a) every person holding a license as a professional engineer or professional land surveyor, (b) every certified engineer intern and land surveyor intern and (c) holders of certificates of authorization.

(2) All persons licensed or certified under the provisions of Chapter 11, Title 34, Code of Alabama 1975 and prior Code, are charged with having knowledge of the existence of the Rules of Professional Conduct (Code of Ethics), Rules 330-X-14-.02 through 330-X-14-.07, and shall be deemed to be familiar with their several provisions and to understand them. Such knowledge shall encompass the understanding that the practice of engineering or land surveying is a privilege, as opposed to a right, and the licensee or intern shall be forthright and candid in his or her statements or written response to the Board or its representatives on matters pertaining to professional conduct.

(3) Where applicable, the singular use of the words "engineer or land surveyor" used in the five Rules of Professional Conduct (Canons) shall also include holders of certificates of authorization.

Effective Date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-14-.02 Conflict of Interest. (Canon I)** The engineer or land surveyor shall exercise independent judgments, decisions and practices on behalf of clients and employers as follows:

(a) The engineer or land surveyor shall attempt to avoid all conflicts of interest with his or her client or employer, but when a conflict of interest is unavoidable, the engineer or land surveyor shall immediately inform his or her employer or client of any business association, interest, or circumstances which might tend to influence the licensee's professional judgments, decisions or practices or the quality of services.

(b) The engineer or land surveyor shall not solicit or accept any gratuity, material favor or benefits of any substantial nature from any party, agent, servant or employee dealing with his or her client or employer in connection with any project on which he or she is performing or has contracted to perform engineering or land surveying services. This solicitation or acceptance includes, but is not limited to any act, article, money or

other material possessions which is of such value proportion that its acceptance creates a clandestine obligation on the part of the receiver or otherwise compromises his or her ability to exercise his or her own independent judgment.

(c) The engineer or land surveyor shall not solicit or accept, directly or indirectly, any engineering or land surveying contract, selection, or employment from a governmental body in which a principal or officer of the licensee's organization serves as a member or employee.

(d) When in public service as a member or employee of a governmental body, the engineer or land surveyor shall not participate, directly or indirectly, in considerations or actions with respect to retaining services offered or provided by the licensee, his or her associates or his or her organization to such governmental body.

Effective Date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-14-03 Qualified by Education and/or Experience. (Canon II)** The engineer or land surveyor shall act competently and use proper care in performing engineering or land surveying services for clients or employers and shall act only in fields in which qualified by education or experience as follows:

(a) The engineer or land surveyor shall not accept any engineering or land surveying employment, or undertake any engineering or land surveying assignment, for which he or she is not qualified by education or experience to perform or to carry out adequately and competently; providing and excepting, however, that an engineer or land surveyor may accept an assignment requiring education and experience outside his or her field of competence only to the extent that personal engineering or land surveying services are restricted solely to those phases of the service or project in which he or she is qualified and competent, and that all other phases of such service or project shall be performed by legally qualified consultants, associates or employees.

(b) The engineer or land surveyor shall not affix his or her signature or seal to any engineering or land surveying plan or document dealing with subject matter on which he or she is not qualified by education or experience to form a dependable judgment.

(c) The engineer or land surveyor, when serving as an expert or technical witness before any court, commission or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his or her testimony.

(d) The engineer, land surveyor, engineer intern, or land surveyor intern shall not engage in any other professional matter for which a specific license is required without first being licensed in that profession.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-14-04 Confidences of Clients and Employers. (Canon III)** The engineer or land surveyor shall safeguard and preserve the confidences and private information of clients and employers as follows:

(a) Except as permitted by 330-X-14-.04(b), the engineer or land surveyor shall not knowingly:

1. Reveal a confidence or private information regarding or in the possession of the licensee's client or employer, current or former;

2. Use a confidence or private information regarding or in the possession of the client or employer, current or former, to the disadvantage of the client or employer;

3. Use a confidence or private information regarding or in the possession of the client or employer for the advantage of a third person, unless the client or employer, current or former, consents after full disclosure except (b) below.

(b) The engineer or land surveyor may reveal confidences or private information under the following circumstances:

1. When he or she has obtained the consent of the client or clients, employer or employers, current or former, affected, but only after full disclosure to them;

2. When required by law or court order;

3. When necessary to establish legal proof of his or her relationship with a client or employer, current or former, in a court action to recover salaries, fees or other compensation due him or her as a result of his or her employment or association with the client or employer, current or former;

4. When necessary to defend himself or herself or his or her employees or associates in a legal action alleging wrongful conduct;

5. When there is potential danger to the public's safety and well being.

(c) The engineer or land surveyor shall exercise reasonable care to prevent unauthorized disclosure or use by his or her employees and associates of private information or confidences regarding or in the possession of a client or employer, current or former.

(d) Nothing in this Rule shall relieve an engineer or land surveyor from complying with Rule 330-X-14.05(j).

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-14-05 Practice. (Canon IV)** The engineer or land surveyor shall endeavor to build a practice and professional reputation on the merit of his or her services as follows:

(a) The engineer or land surveyor shall not offer, or promise to pay or deliver, directly or indirectly, any commission, political contribution, gift, favor, gratuity, benefit or reward as an inducement to secure any specific professional engineering or professional land surveying

work or assignment; providing and excepting, however, that an engineer or land surveyor may pay a duly licensed employment agency its fee or commission for securing engineering or land surveying employment in a salaried position.

(b) The engineer or land surveyor shall not solicit professional employment by self-laudatory advertising, or in any manner contrary to high professional standards.

(c) The engineer or land surveyor shall not make, publish or cause to be made or published, any representation or statement concerning his or her professional qualifications or those of his or her partners, associates, firm or organization which is in any way misleading, or tends to mislead the recipient thereof, or the public, concerning his or her engineering or land surveying education, experience, specializations or other engineering or land surveying qualifications.

(d) The engineer or land surveyor shall not supplant, nor attempt to supplant, directly or indirectly, another engineer or land surveyor in an ongoing engineering or land surveying project, after contracts have been awarded to such other engineer or land surveyor.

(e) The engineer or land surveyor shall not attempt to compete with another engineer or land surveyor for employment by reducing his or her usual charges or by the use of unethical practices.

(f) The engineer or land surveyor shall not participate in procurement practices (bid submittals) which do not first determine the qualifications of the engineer or land surveyor prior to entering into fee negotiations for services being sought. An engineer or land surveyor having submitted a statement of qualification and performance data, and having first been judged as the qualified individual or firm to provide the services required for the proposed project, may proceed to negotiate a contract with a client and establish compensation or fees for the required services.

Should the engineer or land surveyor be unable to negotiate a satisfactory contract with the client for any reason, the engineer or land surveyor shall withdraw from further consideration for the engineering or land surveying services. Another engineer or land surveyor may then be selected for negotiations of a contract for the services on the stated project.

(g) The engineer or land surveyor shall perform his or her work in accordance with approved standards of practice. This performance also includes being guided by current Engineering and Land Surveying Society Codes, Standards, and recommended guidelines which set forth standards generally accepted in the professions such as current editions of the National Electrical Code, American Society of Mechanical Engineers' Codes, Standard Building Code, and the Alabama Society of Professional Land Surveyors' Standards of Practice for Surveying in the State of Alabama dated May 7, 2002.

(h) Should the engineer or land surveyor be presented with a Certification to be signed, sealed, and dated as summarized in Rule 330-X-11-.04 and defined in Rule 330-X-2-.01 (8), he or she should carefully evaluate that

Certification to determine if any of the circumstances set forth below would apply. The engineer or land surveyor who signs, seals, and dates Certifications which: (a) relate to matters which are beyond the engineer's or land surveyor's technical competence, or (b) involve matters which are beyond the engineer's or land surveyor's scope of services actually provided, or (c) relate to matters which were not prepared under the engineer's or land surveyor's responsible supervision, direction or control are subject to disciplinary action pursuant to Rule 330-X-16. If any of these circumstances would apply, the engineer or land surveyor shall either: (a) modify the Certification to limit its scope to those matters which the engineer or land surveyor can properly sign, seal, and date, or (b) decline to sign the Certification.

(i) The engineer or land surveyor shall be completely objective, truthful, and shall include all relevant and pertinent information in all professional reports, statements or testimony.

(j) The engineer or land surveyor shall issue no statements, or criticisms or arguments on matters connected with public policy which are inspired or paid for by an interested party, or parties, unless he or she has prefaced his or her comments by explicitly identifying himself or herself, by disclosing the identities of the party, or parties, on whose behalf he or she is speaking, and by revealing the existence of any pecuniary interest he or she may have in the instant matter.

Effective date: September 10, 1982. Last amendment effective: June 4, 2003.

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-14-.06 Ethics. (Canon V)** The engineer or land surveyor shall contribute to the maintenance, integrity, independence and competency of the engineering or land surveying profession as follows:

(a) The engineer or land surveyor shall not:

1. Violate any provision of the Alabama Law regulating the practice of engineering and land surveying or of the Administrative Code of the Board of Licensure for Professional Engineers and Land Surveyors;

2. Participate, directly or indirectly, in any plan, scheme or arrangement attempting or having as its purpose the evasion of any provision of the Alabama Law regulating the practice of engineering and land surveying;

3. Fail to exercise reasonable care or diligence to prevent his or her partners, associates, and employees from engaging in conduct which if done by him or her, would violate any provision of the Alabama Law regulating the practice of engineering and land surveying;

4. Engage in any illegal conduct, whether a felony or misdemeanor, the essential element of which is dishonesty;

5. Engage in any conduct that discredits or tends to discredit the profession of engineering or land surveying;

6. Permit or allow his or her professional identification, seal, firm, or business name, or his or her services

to be used or made use of, directly or indirectly, or in any manner whatsoever, so as to make possible or create the opportunity for the unauthorized practice of engineering or land surveying by any person, firm, or corporation in this State;

7. Perform any acts, allow omissions or make any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner whatsoever tend to create a misleading impression;

8. Knowingly associate with or permit or allow the use of his or her name, firm name, or professional identification or seal in any business venture, project or enterprise which he or she knows or has reason to believe is engaged in professional practices which violate any provision of the Alabama Law regulating the practice of engineering and land surveying;

9. Knowingly associate with or permit the use of his or her name, professional identification, seal, firm, or business name in connection with any venture or enterprise which he or she knows, or has reason to believe, is engaging in trade, business or professional practice of a fraudulent, deceitful or dishonest nature;

10. Injure or attempt to injure or damage the professional reputation of another by any means whatsoever; provided and except, however, that this shall not relieve an engineer or land surveyor of the obligation to expose unethical or illegal conduct to the proper authorities or preclude a frank, but private, appraisal of engineers or land surveyors or other persons or firms considered for employment;

11. Aid or abet, directly or indirectly, any unlicensed person in connection with the unauthorized practice of engineering or land surveying; or any firm or corporation in the practice of engineering or land surveying unless carried on in accordance with the provisions of Chapter 11, Title 34 of the Alabama Law regulating the practice of engineering and land surveying;

12. Place his or her seal, signature, date, and license number on a document constituting a certification that the document was prepared by the licensee unless the document was prepared by the licensee or under his or her direct control and personal supervision or unless the licensee has reviewed the document in sufficient depth to fully coordinate and assume responsibility for plans prepared by another licensed professional engineer or licensed professional land surveyor.

13. Review the work of another engineer or land surveyor for the same employer, except with the knowledge or consent of the engineer or land surveyor, unless the connection of the engineer or land surveyor with the work has been terminated.

14. Participate in procurement procedures for engineering or land surveying services either by providing the bids or in requesting bids from other professional engineers or land surveyors where bidding is the primary consideration.

15. Fail to respond to the Board on Board inquiries.

(b) The engineer or land surveyor shall be personally and professionally responsible and accountable for the care, custody, control, and use of his or her engineer's or land surveyor's seal, professional signature, and identification. The engineer or land surveyor whose seal has been lost, misplaced, or stolen shall, upon discovery of its loss, report the loss immediately to the Board, which may invalidate the license number of the seal, if it deems this necessary, and issue another license number to the engineer or land surveyor.

(c) When in public service as a member or employee of any governmental body, agency, or department, the engineer or land surveyor shall not participate, directly or indirectly, use or make use of any property, facility or service of such governmental body, agency or department for the benefit of any private business or activity in which such engineer or land surveyor also may be engaged, unless prior, proper authority is obtained in writing.

(d) The engineer or land surveyor shall not, directly or indirectly, use or make use of any property, facility, or service of his or her client or employer for the benefit of the engineer or land surveyor, unless prior, proper authority is obtained in writing.

(e) The engineer or land surveyor shall not practice or offer to practice engineering or land surveying in any governmental jurisdiction in which to do so would be in violation of the laws regulating the practice of professional engineering or professional land surveying in that jurisdiction.

(f) The engineer or land surveyor shall report all violations of the Code of Ethics to the Board.

(g) It shall be the duty and sole responsibility of each licensee and intern to provide written notification to the Board of any changes to their mailing address and business affiliation within 30 days after the change.

Effective date: September 10, 1982. Last amendment effective: January 19, 2005.

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-14-07 Responsibility for Conduct.** A corporation, partnership, or firm shall be held responsible for the conduct or acts of its agents, employees, officers, partners, or owners, licensed or non-licensed.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-9 (d); Section 34-11-35, Code of Alabama 1975)

**330-X-14-08 Convictions.** The revocation, suspension, or denial of a license to practice engineering or land surveying in another jurisdiction, for reasons or causes which the Board finds would constitute a violation of the Alabama Law regulating the practice of engineering and land surveying or any rule, regulation, or code promulgated by the Board, shall be sufficient cause for the denial, suspension, or revocation of a license to practice engineering or land surveying in the State of Alabama.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

## SEVERABILITY

If any of the above provisions of the Rules of Professional Conduct (Code of Ethics) or any part thereof, or any sentence, paragraph, clause, phrase or word thereof is construed by the courts to be invalid for any reason, it is the intention of the Board that the remainder shall continue in full force and effect; that is, it is the intention of the Board that each of the above provisions and/or any portions thereof, are severable.

## CHAPTER 330-X-15 CERTIFICATES OF AUTHORIZATION

330-X-15-.01	Requirements
330-X-15-.02	Application Procedures
330-X-15-.03	Renewal Procedures

### 330-X-15-.01 Requirements.

(1) Section 34-11-9, Code of Alabama 1975 provides that a firm, company, partnership, or corporation may engage or offer to engage in the practice of professional engineering or professional land surveying; provided, one or more of the principal officers of the corporation or firm or partners of the partnership and all personnel of the corporation, partnership, or firm who act in its behalf as professional engineers or professional land surveyors in this state are licensed as provided by Title 34, Chapter 11 of the Code of Alabama 1975, and further provided, that the corporation, partnership, or firm has been issued a certificate of authorization by the Board.

(2) In order to be considered eligible for a certificate of authorization, every firm, partnership, or corporation or other entity which performs engineering or land surveying services in the State of Alabama, shall have a resident licensed professional engineer or licensed professional land surveyor as the case may be, who exercises direct control and personal supervision of the engineering or land surveying work for each separate office or branch office in which engineering or land surveying services are performed or offered to be performed. The resident engineer or land surveyor shall be an employee of the firm, corporation, partnership, or association or other entity, engaged in the practice of engineering or land surveying. The engineer or land surveyor can be the resident licensee at only one place of business at one time.

(3) An engineer or land surveyor who renders occasional, part-time, or consulting engineering or surveying services to or for a firm may not be designated as being in responsible charge of the professional activities of the firm.

(4) The principal engineer or surveyor is responsible for notifying the Board within 30 days of any change in the firm name, in any of the partners or principal officers, or change of address during the year.

(5) In the event of a change in the principal engineer or land surveyor, the firm cannot offer or perform engineering or land surveying services until such time as a new principal is identified.

Effective date: January 19, 2005.  
(Auth: Section 34-11-9; Section 34-11-35, Code of Alabama 1975)

### 330-X-15-.02 Application Procedures.

(1) All applications for certificates of authorization shall be made on a printed form or in the format provided by the Board and no applications made otherwise will be accepted. An application not properly completed, containing all of the information required, or accompanied by the required fee will be returned with a statement of the reason for return. As per Section 34-11-5(e), Code of Alabama, 1975, application fees will not be refunded.

a. Applications will include all branch offices located in the state and all branch offices located out-of-state where engineering or land surveying services for Alabama projects is offered or performed.

b. A separate certificate of authorization is required for engineering and land surveying.

c. In the event the mailing address submitted is a post office box, there must also be a street address identified for each office from which engineering and land surveying services are provided.

d. There is no requirement for a physical location in the state.

(2) Upon an individual obtaining a certificate of licensure and the individual is offering engineering or land surveying services through a firm who does not have a certificate of authorization, a certificate of authorization application must be submitted within 30 days of the notification that licensure has been granted.

(3) Withholding information, misrepresentation, or untrue statements will be cause for denial of the application.

(4) When the Board, after due consideration of an application and of information pertaining thereto finds the firm is not eligible for a certificate of authorization, the firm will be denied. The Executive Director will notify the firm of the action of the Board, and for further consideration the firm may submit a new application, without fee, after securing the necessary eligibility, provided the resubmittal is within five years. A firm, who is denied a certificate of authorization has the opportunity to meet with the Board and/or appeal the Board's decision as provided by Section 34-11-13 and Sections 41-22-12 through 41-22-21, Code of Alabama, 1975.

Effective date: January 19, 2005.  
(Auth: Section 34-11-9; Section 34-11-35, Code of Alabama 1975)

### 330-X-15.03 Renewal Procedures.

(1) A certificate of authorization issued to a corporation, partnership or firm shall lapse on January 31 following the issuance or renewal if not renewed, and the corporation, partnership or firm may not offer or engage in engineering or land surveying services until the certificate of authorization has been renewed. A certificate of authorization not renewed within two years after it has lapsed will become null and void and is considered expired.

(2) Certificates of Authorization are renewed annually. Renewal applications will be mailed no later than December 1 to every corporation, partnership, or firm holding a certificate of authorization. The application form shall be completed and returned with the renewal fee prescribed by the Board. All requirements for completing a renewal application will be the same as for an initial application as identified in Section 330-X-15.02.

Effective date: January 19, 2005.

(Auth: Section 34-11-8; Section 34-11-9; Section 34-11-35, Code of Alabama 1975)

## **CHAPTER 330-X-16 DISCIPLINARY ACTION**

330-X-16-.01	Complaints
330-X-16-.02	Probable Cause
330-X-16-.03	Charges
330-X-16-.04	Pre-Hearing Discovery
330-X-16-.05	Disciplinary Hearings
330-X-16-.06	Discipline
330-X-16-.07	Reinstatement of Licensure or Certification after Revocation
330-X-16-.08	Conflict and Bias

**330-X-16-.01 Complaints.** The Board may initiate action in cases where a person's actions or business entity's actions are in violation of the law. Upon receipt of evidence from any person that an individual has violated the law and/or the rules of the Board, the Board may assemble the facts, obtain legal guidance, follow the case to completion based on the legal guidance given and begin administrative action, levy a civil administrative penalty, file a civil action, and/or refer the matter for criminal prosecution.

(1) Proceedings to revoke, refuse to renew, or to suspend a license or a certificate of authorization or to censure, place on probation and/or fine a licensee, a certified engineer intern, a certified land surveyor intern or a corporation, partnership, or firm holding a certificate of authorization may be initiated by the Board or by any person upon the filing of a complaint with the Board office.

(2) Proceedings to begin Board administrative action, or to prosecute in criminal court a licensee or a nonlicensee may be initiated by the Board or by any person upon the filing of a complaint with the Board office.

(3) A complaint initiated by an individual or entity against a licensee or nonlicensee shall be in writing and shall contain:

(a) Name and address of the complaining party as well as the name and address of the individual or entity against which the complaint has been filed.

(b) A plain and concise statement of the facts which indicate that the provisions of Chapter 11, Title 34, Code of Alabama 1975, Rules promulgated by the Board, or Rules of Professional Conduct (Code of Ethics) have been violated.

(c) The relief sought.

(d) The signature of the complainant.

(4) A complaint, if any parties involved in the complaint are anticipating litigation or litigation is pending, including appeals, will not be investigated unless the immediate failure to investigate adversely impacts the public health, safety, or welfare. Upon completion of all litigation, the complainant should provide all court documents to the Board. The Board, after review of the court documents, shall determine whether an investigation should be conducted.

(5) A complaint initiated by the Board against a licensee or non-licensee, shall be referred to an investigative committee to determine if sufficient facts are present that indicate provisions of Chapter 11, Title 34, Code of Alabama, 1975, Rules promulgated by the Board, or Rules of Professional Conduct (Code of Ethics) have been violated. If sufficient evidence is present, the investigation will proceed in strict accordance with due process.

Effective date: September 10, 1982. Last amendment effective: January 19, 2005.

(Auth: Section 34-11-11; Section 34-11-15; Section 34-11-16; Section 34-11-35, Code of Alabama 1975)

**330-X-16-.02 Probable Cause.** Upon receiving a complaint the Executive Director shall refer the complaint to one member of the Board; provided, however, that if the complaint is first made to a Board member, then it shall be referred to that Board member. The Board member to whom a complaint is referred, the Executive Director, the Board's attorney, and the Board investigator (Investigative Committee) shall determine appropriate action and/or whether probable cause exists. If charges are filed, the Board member who made the probable cause determination shall not sit as a member of the Board at the disciplinary hearing held pursuant to the charges.

Effective date: October 1, 1983. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-11; Section 34-11-16; Section 34-11-35, Code of Alabama 1975)

### **330-X-16-.03 Charges.**

(1) The Board shall instruct its counsel to prepare charges once the Board determines that probable cause exists.

(2) The charges shall be sent certified mail, return receipt requested, to the most recent address of the respondent and shall be mailed at least 30 days prior to the scheduled date of the hearing. A copy shall also be sent first class mail.

(3) The charges shall be specific and give notice in compliance with the Alabama Administrative Procedure Act, Section 41-22-12 (b) and Section 34-11-11, Code of Alabama 1975.

Effective date: October 1, 1983. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-11; Section 34-11-16; Section 34-11-35, Section 41-22-12(b); Code of Alabama 1975)

### **330-X-16-.04 Pre-Hearing Discovery.**

(1) Pre-hearing discovery shall be permitted in accor-

dance with this rule to the extent necessary to prevent fraud, conserve the Board's time, prevent undue surprise at hearing, and facilitate the carriage of justice.

(2) The attorney for the Board or the respondent may upon application to the Board member, who determined probable cause, or if a Hearing officer, the Hearing officer, obtain discovery regarding any matter not privileged which is relevant to the subject matter involved in the pending action, whether it relates to the charges of the Board or the defense of the respondent.

(3) Methods of Discovery.

(a) Upon written application to the Board member, who determined probable cause or if a Hearing officer, the Hearing officer, the following discovery shall be allowed or ordered:

1. Deposition upon oral examination of any expert witness.

2. Interrogatories to respondent.

3. Order for production and copying of documents and things and entry upon land for inspection and other purposes, against any person.

(b) The discovery must be had in accordance with any terms and conditions imposed by the Board member or if a Hearing officer, the Hearing officer. The Board member or if a Hearing officer, the Hearing officer may impose any such terms and conditions as are just upon discovery in order to protect a person from annoyance, embarrassment, oppression, or undue burden or expense.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

**330-X-16-.05 Disciplinary Hearings.**

(1) Conduct of Hearing.

(a) Hearing Officer. The Board may, in its discretion, appoint a person to act as Hearing officer at disciplinary hearings. In the event a Hearing officer is appointed, he or she shall preside at the hearing and shall rule on all questions of evidence and procedure, notwithstanding any other provisions of these rules to the contrary.

(b) Plea. The respondent shall plead either "guilty" or "not guilty" to the charges.

(c) Opening Statement. Each side shall be permitted to make a short opening statement.

(d) The Board shall present its evidence, followed by the respondent, followed by rebuttal by the State. Each witness called may be examined in the following manner:

1. Direct examination.

2. Cross examination.

3. Examination by Board.

4. Re-direct examination.

5. Re-cross examination.

6. Re-examination by Board.

(e) Closing Argument. Each side shall be permitted to make a short closing statement summarizing the evidence presented and urging the application of relevant law to the evidence presented.

(f) The Board may request one or both sides to prepare within seven days a proposed order of the Board for the Board's consideration including findings of fact, official notice, and conclusions of law. Underlying facts of record which support the findings should be cited.

(g) Order. The Board shall issue an order within 30 days of the date of the final hearing, which shall include findings of fact, official notice taken, and conclusions of law stated separately. Respondent shall be delivered a copy of the order by certified mail, return receipt requested, and a copy shall be mailed first class to each attorney of record.

(2) Evidence. Evidence shall be admitted in accordance with the Alabama Administrative Procedure Act, Section 41-22-13, Code of Alabama 1975. Relevant Federal, State, and local codes as well as relevant engineering and land surveying society codes, guidelines, and standards may be admitted into evidence in disciplinary proceedings before the Board to set forth standards generally accepted by the professions. These would include relevant engineering or land surveying codes and standards such as, current editions of the National Electrical Code, American Society of Mechanical Engineers' Codes, Standard Building Code, and the Alabama Society of Professional Land Surveyors' Minimum Technical Standards for Land Surveying.

(3) Other. The hearing shall be conducted in compliance with the provisions of the Alabama Administrative Procedure Act, Chapter 22, Title 41, Code of Alabama 1975. If the accused person or corporation fails or refuses to appear, the Board may proceed to hear and determine the validity of the charges.

(4) Negotiated Settlements. The Board attorney is hereby authorized to negotiate settlements with any respondent wishing to do so. In the event that the Board attorney and the respondent have reached tentative agreement on a negotiated settlement prior to the date set for hearing of the charges, such agreement shall be presented to the Board at the first available opportunity. The Board may either accept or reject the tentative agreement of negotiated settlement and if accepted, the respondent shall be notified and no hearing held. If the Board rejects the tentative agreement of negotiated settlement, the charges shall be heard by the Board within a reasonable time.

Effective date: Section (1)(a) through (1)(f): September 10, 1982 Sections (1)(g), (2), (3) and (4): October 1, 1983. Last amendment effective: October 28, 1998.

(Auth: Section 41-22-13, Section 41-22-16(c); Section 41-22-19 (d); Section 34-11-11; Section 34-11-16; Section 34-11-35, Code of Alabama 1975)

### **330-X-16-.06 Discipline.**

(1) Upon a finding that the respondent has violated any enumerated provision of Sections 34-11-11, 34-11-15, 34-11-16, or any rule adopted pursuant to Section 34-11-35, the Board shall impose any or all of the disciplinary penalties set forth in Code of Alabama 1975, Section 34-11-11.

(2) Stay of Execution of Order. The Board may, in its discretion, permanently or temporarily stay the execution of its order to censure, place on probation, fine, revoke, or suspend a licensee respondent's license, certification, or certificate of authorization. The Board may, in its discretion, permanently or temporarily stay the execution of its order to fine a non-licensee respondent. The stay may be conditioned on any provision the Board deems appropriate under all the circumstances of a particular case.

(3) Consideration. In determining whether a license, certification or certificate of authorization should be revoked or suspended, and whether execution of the order should be stayed, and upon what conditions, the Board shall consider all relevant factors.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-11; Section 34-11-35, Code of Alabama 1975)

### **330-X-16-.07 Reissuance of Licensure or Certification after Revocation.**

(1) Any person, corporation, partnership, or firm whose license, certification, or certificate of authorization has been revoked may apply, when permitted by Law, to the Board for reissuance of the license or certificate. In the application for reissuance, the applicant should state why the license, certification, or certificate of authorization should be reissued and should specifically set forth any changed circumstances which would justify reissuance.

(2) Upon receipt of such application the Board shall grant the applicant a hearing on reissuance, at which time the applicant may appeal to the Board to reissue his or her license or certification.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-12; Section 34-11-35, Code of Alabama 1975)

### **330-X-16-.08 Conflict and Bias.**

(1) No Board member shall be entitled to vote in any disciplinary matter if the Board member is personally biased, or if a conflict exists with the respondent, or if such voting would violate the provisions of the Alabama Administrative Procedure Act, Section 41-22-18 (a), Code of Alabama 1975.

(2) Any respondent in a disciplinary action who wishes to assert bias or conflict may do so by filing an affidavit asserting the disqualification together with the underlying factual bias for the assertion with the Executive Director at least three days before the scheduled disciplinary hearing.

(3) The Board shall consider the assertion of disqualification on the record as a preliminary matter at the hearing before any other action is initiated.

Effective date: October 1, 1983. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Section 34-11-11, Section 41-22-18 (a); Code of Alabama 1975)

## **CHAPTER 330-X-17 SEVERABILITY**

### **330-X-17-.01 Severability**

**330-X-17-.01 Severability.** If any of the Rules and Regulations of the Board which shall be known as "The Alabama State Board of Licensure for Professional Engineers and Land Surveyors Administrative Code" or any part thereof, or any sentence, paragraph, clause, phrase or word thereof is construed by the courts to be invalid for any reason, it is the intention of the Board that the remainder shall continue in full force and effect; that is, it is the intention of the Board that each Rule and/or any portions thereof, are severable.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

## **CHAPTER 330-X-18 AMENDMENT OF RULES**

330-X-18-.01	Petition for Adoption of Rules
330-X-18-.02	Notice
330-X-18-.03	Public Comments
330-X-18-.04	Board Decision
330-X-18-.05	Emergency Rules
330-X-18-.06	Compliance with Administrative Procedure Act

### **330-X-18-.01 Petition for Adoption of Rules.**

(1) Any person who wishes to propose that the Board adopt, repeal or amend any rule may file a petition for adoption of rules on a form as provided by the Board.

(2) The Board shall meet and consider any petition for adoption, repeal or amendment within ninety days of its submission.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Section 41-22-8; Code of Alabama 1975)

### **330-X-18-.02 Notice.**

(1) The Board shall give at least 35 days' notice of any proposed action on any rule by publication in the Alabama Administrative Monthly in compliance with the Alabama Administrative Procedure Act, Section 41-22-

5(a)(1), Code of Alabama 1975.

(2) Any person who wishes to receive notice by mail of all proposed actions on rules may do so by requesting such notice from the Executive Director and pay an annual charge of \$50 to cover costs of the mailings. All annual subscriptions begin October 1 and expire September 30.

Effective date: October 1, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Section 41-22-5, Code of Alabama 1975)

**330-X-18-03 Public Comments.** The Board shall permit all interested persons reasonable opportunity to submit data, views or arguments concerning any proposed rule action. Data, views or arguments submitted in writing must be received by the Executive Director before the date specified in the notice. Upon written request, a public hearing will be held.

Effective date: October 1, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Section 41-22-5; Code of Alabama 1975)

#### **330-X-18-04 Board Decision.**

(1) The Board shall consider all written and oral submissions concerning every proposed rule action. Upon adoption of a rule, if conflicting views are submitted on the proposed rule, the Board shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling any considerations urged against its adoption.

Effective date: October 1, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Section 41-22-5; Code of Alabama 1975)

**330-X-18-05 Emergency Rules.** In the event the Board finds that an immediate danger to the public health, safety, or welfare requires adoption of a rule upon fewer than 35 days' notice or that action is required by or to comply with a federal statute or regulation which requires adoption of a rule upon fewer than 35 days' notice, the Board may adopt an emergency rule under the provisions of the Administrative Procedure Act, Section 41-22-5(b),

Code of Alabama 1975.

Effective date: October 1, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Section 41-22-5; Code of Alabama 1975)

**330-X-18-06 Compliance with Administrative Procedure Act.** All rules adopted by the Board shall otherwise substantively and procedurally comply with the provisions of the Alabama Administrative Procedure Act, Chapter 22, Title 41, Code of Alabama 1975.

Effective date: October 1, 1982. Last amendment effective: October 28, 1998.

(Auth: Section 34-11-35, Code of Alabama 1975)

# STATE OF ALABAMA



## Board of Licensure for Professional Engineers and Professional Land Surveyors

### Alabama Law Regulating Practice of Engineering and Land Surveying

Code of Alabama 1975, Title 34, Chapter 11

**Last Amended - May 2004**

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### **Administrative Code**

*(Rules and Regulations)*

including

### **Rules of Professional Conduct**

*(Code of Ethics)*

see Rule 330-X-14

**Last Amended - January 2005**

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